STATE OF ILLINOIS

ILLINOIS COMMERCE COMMISSION

Illinois Commerce Commission On Its Own Motion	:	
In the Matter of Moratorium on Disconnection of Utility Services during the Public Health Emergency Declared on March 9, 2020 pursuant to Sections 4 and 7 of the Illinois Emergency Management Agency Act.	:	**20-0309**

PROPOSED SECOND INTERIM ORDER

April 20, 2020

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I. PROCEDURAL HISTORY

On March 18, 2020, the Illinois Commerce Commission ("Commission") entered its Emergency Interim Order initiating this proceeding. In the Emergency Interim Order, the Commission directed gas, water, and electric distribution utilities to cease disconnecting customers for non-payment and to cease imposing late-payment fees until May 1, 2020, or until the Governor announces the end of the COVID-19 state of emergency, if the state of emergency continues past May 1, 2020. Emergency Interim Order at 4-5, 7. In so ordering, the Commission determined that "[a]ccess to essential utility service will be necessary to slow the spread of the [COVID-19 infection] and to protect public health." *Id.* at 4.

The Commission also directed utilities to implement "revised and more flexible … credit and collections procedures … to ensure that customers remain connected to essential utility services when the emergency status ends." *Id.* at 4, 7. The Commission directed that such procedures be "more flexible … than the minimum standards outlined in Part 280 of the Commission's Rules[,]" and that such procedures "remain in effect for a period of no less than six (6) months." *Id.* at 4. The Commission directed utilities to "file a response to [the Emergency Interim Order], identifying: (a) whether it will voluntarily cease disconnections for non-payment, and suspend the imposition of late payment fees or penalties, … ; and (b) the proposed flexible credit and collections procedures, as described above[.]" Any utility that considered itself unable to comply was ordered to "show cause why it is unable to issue said moratorium and revised credit and collections procedure[.]" Emergency Interim Order at 7. No utility has elected to do so to date.

On March 20, 2020, a duly appointed Administrative Law Judge ("ALJ") directed that utility responses to the Emergency Interim Order were due within seven business days. The ALJ set the matter for a prehearing conference on April 2, 2020.

On March 27, 2020, the following utilities filed the required responses: Commonwealth Edison Company ("ComEd"); The Peoples Gas, Light and Coke Company ("Peoples Gas") and North Shore Gas Company (jointly, "NSG-PGL"); MidAmerican Energy Company ("MidAmerican"); Consumers Gas Company ("Consumers"); Illinois Gas Company ("IGC"); Aqua Illinois, Inc. ("Aqua"); Illinois-American Water Company ("Illinois-American" or "IAWC"); Northern Illinois Gas Company d/b/a Nicor Gas Company ("Nicor Gas" or "Nicor"); Mt. Carmel Public Utility Co. ("Mt. Carmel" or "MCPU"), Utility Services of Illinois, Inc. ("USI"); Liberty Utilities (Midstates Natural Gas) d/b/a Liberty Utilities ("Liberty Midstates" or "Liberty"); and Ameren Illinois Company d/b/a Ameren Illinois ("Ameren" or "Ameren Illinois").

On March 30, 2020, the ALJ issued a ruling which, among other things, directed Staff of the Commission ("Staff") and any intervenors to submit responses, if any, to utility plans by April 6, 2020. On April 2, 2020, a pre-hearing conference was convened, in the course of which the Attorney General for the State of Illinois ("AG") and the City of Chicago ("City") filed appearances and a not-for-profit entity Community Organizing and Family Issues ("COFI") was granted leave to intervene. Ameren objected, to the Petition to Intervene filed Allen Cherry, a rate payer, so a schedule was set for Responses and Replies to the Petition to Intervene. The ALJ also set a schedule for further proceedings with respect to determining the utilities' compliance with the Emergency Interim Order. Also, on April 3, 2020, the Citizens Utility Board ("CUB") filed a Petition to Intervene. On April 6, 2020, Staff, the AG, CUB, Allen Cherry and COFI filed Responses. Also, on April 6, 2020, Mr. Cherry filed his Reply in Support of Petition to Intervene. On April 9, 2020, the ALJ granted the Petitions to Intervene filed by CUB and Mr. Cherry. The AG, City-CUB, COFI and Mr. Cherry, are collectively the Intervenors ("Intervenors"). On April 8, 2020, Rockwell Utilities, LLC ("Rockwell") joined as a respondent to the Emergency Interim Order and filed its Response and plan.

On April 10, 2020, Staff, ComEd, NSG-PGL, MidAmerican, Mt. Carmel, IGC, Liberty, Aqua, IAWC, USI, Ameren, the City, COFI, Nicor, and the AG submitted Replies to other parties' April 6 Responses. On April 13, 2020, Archer-Daniels-Midland Company and Caterpillar Inc., as members of the Illinois Industrial Energy Consumers ("IIEC") filed a Petition for Leave to Intervene, and on April 14, 2020, the Legal Aid Society of Metropolitan Family Services ("Legal Aid") filed a Petition for Leave to Intervene. On April 15, 2020, the ALJ granted the Petitions to Intervene filed by IIEC and Legal Aid.

On April 14, 2020, the following parties filed Position Statements: IGS; Staff; ComEd; Mr. Cherry; Liberty; Consumers; Mt. Carmel; Aqua, USI, and IAWC (jointly "Large Water Utilities"); NSG-PGL; Ameren; COFI; Nicor Gas; City and CUB (jointly "City-CUB"); and the AG. MidAmerican filed its Statement of Position on April 15, 2020.

II. COMPLIANCE WITH THE MARCH 18 EMERGENCY INTERIM ORDER

A. Staff's Position

In general, Staff views this docket as essentially a compliance proceeding, and to the extent the Commission shares this view, which Staff avers it should, Staff recommends the Commission determine that each utility filing a plan has complied with the Commission's Emergency Interim Order and decline to impose Statewide mandated credit and collection policies and procedures. It appears to Staff that each utility has

agreed to cease disconnections for non-payment and to suspend assessment of late payment fees until May 1, 2020 or until the Governor announces the end of the public health emergency. Staff sees no controversy regarding whether utilities have complied with that portion of the Emergency Interim Order.

Staff notes that with respect to credit and collection procedures, the Commission directed the utilities to submit "revised and more flexible … credit and collections procedures … to ensure that customers remain connected to essential utility services when the emergency status ends[,]" which were to be "more flexible … than the minimum standards outlined in Part 280 of the Commission's Rules[,]" and which were to remain in effect for six months after the end of the declared public health emergency. Emergency Interim Order at 4, 7. In Staff's view, that was the language in the Emergency Interim Order with which the utilities were directed to comply, and that is what each of them did. It appears to Staff that it would be inconsistent with basic principles of administrative law to require utilities to do something which they had no reason to expect would be required of them based on the Emergency Interim Order. *Cf. Baker v. Racing Board*, 101 Ill. App. 3d 580, 584 (5th Dist. 1981) (adequacy of notice is assessed by determining whether the party receiving the notice should have anticipated the possible effects of the hearing based on the notice).

The Commission agrees with Staff that this was intended to be a compliance proceeding. The determination as to whether each utility's response complies with the directive given in the Emergency Interim Order is discussed below. The Commission also addresses the alternative proposals of the parties in the conclusion in Section III. below. The Commission agrees with Staff's view that the Emergency Interim Order requires each utility to cease all disconnections and provide flexible credit and collections ("C&C") procedures during the pendency of the state of emergency. Each utility's filing is addressed below.

B. ComEd's Plan

ComEd commits to remain in compliance with the Emergency Interim Order to cease disconnections of customers for non-payment and suspend late payment fees until May 1, 2020 or until the Governor announces the end of the public health emergency.

With respect to temporary implementation of more flexible credit and collection procedures, ComEd proposes to extend the length of time for the completion of a Deferred Payment Arrangement ("DPA") from 12 months to 24 months for eligible customers. ComEd proposes that residential customers will be allowed five installments to complete payment of a deposit, and that ComEd will re-activate service, or connect new service, on somewhat more favorable terms. ComEd will waive deposits for new or reconnected service for residential and commercial customers on a showing of financial hardship and is suspending financial insecurity deposits for commercial and industrial customers. ComEd has also suspended collection activities. Further, ComEd customers with the Low Income Home Energy Assistance Program ("LIHEAP") grants will not be required to pay a connection fee, and grants will be available based on medical need.

The Commission finds that ComEd's March 27 Response complies with the Emergency Interim Order.

C. Ameren's Plan

Ameren states that it ceased disconnections on March 13, 2020, and further states that it will not disconnect customers for non-payment of impose late payment fees through May 1, 2020 or until the Governor declares the public health emergency to be over.

Ameren proposes to cease imposition of certain miscellaneous charges, including reconnection fees, returned check fees and deposits required as a result of late payment. Ameren plans to offer revised and more favorable DPAs to both residential and non-residential customers. In very general terms, the revised DPAs reduce the amount of down payment and lengthen the period of time for completion of the DPA.

Ameren proposes to increase consumer education and outreach efforts to inform customers of the availability of payment assistance, such as LIHEAP, and further proposes to make increased efforts with respect to energy efficiency, implement a "flex-pay" option, which appears to be a metered pre-payment arrangement, and a "pick a due date" option, under which customers can adopt a payment due that best suits their needs. Ameren will assess the effectiveness of its efforts and consider additional changes to assist customers during and after the moratorium.

The Commission finds that Ameren's March 27 Response complies with the Commission's Emergency Interim Order.

D. Large Water Utilities' Plan

1. Aqua Illinois' Plan

Aqua states that effective March 13, 2020, it voluntarily initiated a customer termination moratorium and will discontinue non-emergency service shut-offs and suspend the imposition of late payment fees or penalties until May 1, 2020, or until the Governor announces the end of the COVID-19 state of emergency if the state of emergency continues past May 1, 2020.

Aqua proposes to offer all requesting customers DPAs afforded to low-income customers under 83 Ill. Adm. Code 200.125, and states that it does not assess deposits to new customers and so will not during the emergency. Aqua will also increase consumer education to inform customers of the possible availability of payment assistance from Aqua Aid, which is an assistance program designed to enable customers in need to receive uninterrupted water service.

The Commission finds that Aqua's March 27 Response complies with the requirements of the Commission's Emergency Interim Order

2. IAWC's Plan

IAWC ceased disconnections for non-payment on March 12, 2020, ceased imposing reconnection fees, and began reconnecting customers disconnected for non-payment on March 13, 2020, and ceased imposing late-payment fees on March 16, 2020, and will continue to do so for the duration of the public health emergency or May 1, 2020.

With respect to more flexible credit and collection procedures, IAWC currently offers a combination of DPAs and budget billing, not required by Part 280. As a result, IAWC allows customers who have had past payment trouble to roll a DPA into a budget

billing plan, in order to level payments, including past due amounts, for a longer, 12-month period. IAWC will extend the DPA period, as well as extend bill-payment dates.

The Commission finds that IAWC's Response complies with the Emergency Interim Order.

3. USI's Plan

Prior to the date of entry of the Emergency Interim Order, USI ceased disconnections of customers for non-payment and suspended imposition of late payment fees, and it will continue to do so until May 1, 2020 or the Governor announces the end of the public health emergency.

USI proposes a plan to temporarily implement more flexible utility credit and collection procedures for at least six months after the moratorium, which includes revisions to DPAs, which lengthens to 18 months the amount of time customers have to complete the DPA. USI states that it plans to work with individual customers regarding deferred payments.

The Commission finds that USI's Response complies with the Emergency Interim Order.

E. Nicor Gas' Plan

Nicor ceased disconnections of customers for non-payment and suspended imposition of late payment fees and will continue to do so until May 1, 2020 or the Governor announces the end of the public health emergency.

Nicor proposes a plan to temporarily implement more flexible utility credit and collection procedures for at least six months after the moratorium to extend the Commission's winter heating season rules that include more favorable DPA and deposit terms for customers.

The Commission finds that Nicor's Response complies with the Emergency Interim Order.

F. NSG-PGL's Plan

NSG-PGL ceased disconnections of customers for non-payment and suspended imposition of late payment fees and will continue to do so until May 1, 2020 or the Governor announces the end of the public health emergency.

NSG-PGL proposes a plan to temporarily implement more flexible utility credit and collection procedures for at least six months after the moratorium, which includes revisions to DPAs to make them available on more favorable terms (a 10%, rather than 25%, payment of past-due balance is required) and increased consumer education to inform customers of the availability of payment assistance, and to lengthen the amount of time for completion of a DPA by residential and commercial customers. In addition, NSG-PGL will not assess deposits during the six-month period.

The Commission finds that NSG-PGL's March 27 Response complies with the Emergency Interim Order.

G. IGC's Plan

IGC states that it has ceased disconnections of customers for non-payment and suspended imposition of late payment fees until May 1, 2020 or the Governor announces the end of the public health emergency.

IGC proposes a plan to temporarily implement more flexible utility credit and collection procedures for at least six months after the moratorium; specifically, IGC will monitor customer account balances on a case-by- case basis for six months following the end of the emergency. Customers showing evidence of late payments will be given additional time to retire debt. IGC is prepared to extend DPAs six months past the initial payment of one third of past due amounts.

The Commission finds that IGC's Response complies with the Emergency Interim Order.

H. Mt. Carmel's Plan

Mt. Carmel states that on the date of entry of the Emergency Interim Order, it ceased disconnections of customers for non-payment and suspended imposition of late payment fees, and it will continue to do so until May 1, 2020 or the Governor announces the end of the public health emergency.

Mt. Carmel plans to temporarily implement more flexible utility credit and collection procedures for at least six months after the moratorium, to extend the Commission's winter heating season rules that include more favorable DPA terms for customers, waive reconnection and non-sufficient fund fees, and waive deposits to customers with a history of slow payment. Mt. Carmel states that it is committed to working with customers but plans to resume disconnection for non-payment after the moratorium is lifted.

The Commission finds that Mt. Carmel's Response complies with the Emergency Interim Order.

I. Consumers' Plan

Consumers states that it has ceased disconnections of customers for non-payment and suspended imposition of late payment fees until May 1, 2020 or the Governor announces the end of the public health emergency. Consumers further states that it will not disconnect customers for non-payment or impose late fees for a period of six months after the end of the emergency.

Consumers states that it will work with customers to extend the terms of DPAs as needed and will extend DPAs to all customers who request them.

The Commission finds that Consumers' March 27 Response complies with the Emergency Interim Order.

J. MidAmerican's Plan

MidAmerican ceased disconnections of customers for non-payment and suspended imposition of late payment fees, and it will continue to do so until May 1, 2020 or the Governor announces the end of the public health emergency.

MidAmerican proposes a plan to temporarily implement more flexible utility credit and collection procedures for at least six months after the moratorium, including revisions to DPAs and increased consumer education to inform customers of the availability of payment assistance. MidAmerican's proposed revision to DPAs reduces the amount of down payment and lengthens the amount of time for completion of the DPA for both residential and commercial customers. In addition, MidAmerican will not assess deposits during the six-month period.

The Commission finds that MidAmerican's Response complies with the Emergency Interim Order.

K. Liberty's Plan

Liberty ceased disconnections of customers for non-payment and suspended imposition of late payment fees, and it will continue to do so until May 1, 2020 or the Governor announces the end of the public health emergency.

Liberty proposes a plan to temporarily implement more flexible utility credit and collection procedures for at least six months after the moratorium and will extend the Commission's winter heating season rules that include more favorable DPA terms for customers. Liberty will include additional flexibility for low-income customers and allow DPA for non-residential customers. Liberty also intends to continue its suspension of disconnections for non-payment during the six-month period as well as to suspend collections notices, shut-off notices, and suspend slow-pay deposit requirements. Liberty states that it will cease assessing certain fees, include late-payment fees, reconnection fees and returned check fees, and will continue to consider other approaches to assist customers.

The Commission finds that Liberty's March 27 Response complies with the Emergency Interim Order.

L. Rockwell's Plan

Rockwell states that it has ceased disconnecting customers for non-payment and suspended imposition of late payment fees until May 1, 2020 or the Governor announces the end of the public health emergency.

Rockwell will not disconnect customers for non-payment or impose late fees for six months after the end of the emergency, and states that DPAs will be available to customers even though they would not be automatically eligible.

The Commission finds that Rockwell's Response complies with the Emergency Interim Order.

III. STATEWIDE MANDATED CREDIT & COLLECTION POLICIES AND PROCEDURES

A. OVERALL

1. Staff's Position

Staff notes that the Intervenors all fail to address the question of the authority upon which the Commission can impose the statewide minimum requirements they propose in a compliance proceeding. Staff further notes that Illinois utilities serve different regions

and provide service on differing rates, terms and conditions to differently situated customer bases. Further, Staff observes that utilities utilize billing and collection information systems that differ widely in characteristics and capabilities, and the utilities themselves are likely to face unique technical challenges in implementing temporary measures of any kind. Accordingly, Staff finds it difficult to see how a "one size fits all" approach can be implemented, at least one on the scale and scope proposed by COFI, City-CUB and the AG.

Likewise, Staff recommends the Commission decline to impose the measures proposed by the AG, COFI, CUB and Mr. Cherry in a proceeding in which parties have been – of necessity - afforded the barest process. *See Abrahamson v. Dep't of Prof'l Reg.*, 153 Ill. 2d 76 (1992) (administrative due process requires hearing before impartial tribunal and the right to cross-examine adverse witnesses). As Staff has proposed, one possible approach is to adopt the utility proposals and monitor them for effectiveness. In addition, Staff has proposed another possible avenue by which some of the measures proposed by the AG, COFI, City-CUB and Mr. Cherry might be implemented.

Staff notes that, without considering the question of what measures the Commission can impose here, there is some merit to uniform statewide standards; the Commission's adoption of Code Part 280 confirms this. Staff notes the gravity of the challenges facing Illinois utility customers and the temporary nature of the credit and collection procedures being implemented make it imperative that the credit and collection procedures be easily understood by utility customers, which might be best accomplished if utilities, the Commission, and consumer assistance organizations, are able to advise customers based on at least some consistent and uniform minimum standards. In Staff's view, there are several temporary credit and collection procedures advanced by both the utilities and intervenors that on their face appear to lend themselves to uniform and consistent implementation by all utilities, assuming that questions regarding cost recovery can be resolved. Staff is of the opinion that, in providing assurances regarding cost recovery, the Commission should also call on the utilities to implement these uniform and standard measures.

2. ComEd's Position

The Commission should not adopt the proposals and recommendations of certain intervenors, specifically the AG, City-CUB, COFI, and Mr. Cherry, that the Commission change or enlarge the scope of this docket into an expansive proceeding for review and establishment of universal (statewide for all utilities in all sectors) temporary and more flexible credit and collections practices. Staff's and the utilities' respective filings collectively show that this is a docket focused on utility compliance with the Emergency Interim Order, and that expansion of the docket to devise and impose uniformity would be impractical and possibly counter-productive, as well as improper. *See* Staff's April 6 Response at 3; *see also, generally*, Staff's and the utilities' respective April 10 Replies to the intervenors' April 6 Responses.

ComEd argues that expansion of the docket would be impractical and possibly counter-productive. The AG, City-CUB, COFI, and Mr. Cherry ask the Commission to use this proceeding to institute uniform – yet temporary – more flexible utility credit and collections policies and procedures during the Post-Emergency Period.

The Commission should find and conclude that the recommendations for uniform and mandatory temporary credit and collection policies should be rejected as impractical and possibly counter-productive. ComEd April 10 Reply at 5-8.

First, and most importantly, as a practical matter, the compressed nature of this emergency proceeding does not allow the Commission to achieve the uniformity that the intervenors desire. Devising "standard" uniform policies and procedures without the benefit of discovery and a strong evidentiary record, and thus without a full vetting to support those policies, such as sufficient modeling to determine the policies' potential effects, could result in a rash of impractical – or even dangerous – and unusable standards. ComEd April 10 Reply at 5-6. Even as of the April 10 Reply stage, while there were many similarities among many intervenor positions, there also still were material differences between their proposals on some subjects. *See, e.g.*, COFI April 10 Reply at 7-9. Moreover, the possibility of unintended consequences is high in this situation. Forcing utilities to adopt new uniform policies by the end of April 2020 could easily result in a hodge-podge of mismatched policies and procedures that cause more damage later. For example, COFI expresses a concern that the AG proposal for a post-Moratorium 60-day grace period on disconnections might inhibit a customer's ability to obtain reconnection grants under the LIHEAP program. COFI April 10 Reply at 9; *see also* Ameren April 10 Reply at 9. Similarly, ComEd is concerned that, if the Commission were to adopt COFI's suggestion that the utilities must offer customers a new program similar to the existing Illinois Percentage of Income Payment Plan ("PIPP") program, (305 ILCS 20/18), participation in COFI's new PIPP-like program may – inadvertently – reduce the benefit amount for any participating customers for LIHEAP grants later. ComEd April 10 Reply at 5-6.

Second, it is not feasible to create fully uniform credit and collections policies across different utilities spread across different utility sectors – electric, gas, water and sewer. Each sector has its own unique governing statutes, Commission orders and decisions, and cost recovery mechanisms. Each utility has its own governing terms and conditions and tariffs within which it operates its own business, with its own customer service operations, financials, and information technology ("IT") assets. Each utility also understands the unique needs of its customers and has customized its business to meet their needs. The Commission's Part 280 rules recognize and respect the individual nature of the utilities across the different sectors by establishing "minimum" requirements that utilities must meet while also providing utilities the flexibility to meet those requirements within the confines of their unique operations and sectors. *See* 83 Ill. Adm. Code 280.5 ("The policies and procedures outlined in [Part 280]…shall be viewed as the minimum standards applicable to gas, electric, water and sanitary sewer utilities. Utilities that are subject to this Part shall have the ability to expand or supplement the customer rights guaranteed by these provisions as long as those policies are applied in a nondiscriminatory manner."). ComEd April 10 Reply at 6-7. The AG's April 10 Reply appears to proceed from the premise that Part 280 mandates uniformity, but that is not correct, as noted above. AG April 10 Reply at 8.

The Emergency Interim Order instructed the utilities to develop, and, in the Post-Emergency Period, implement, more flexible temporary utility credit and collections procedures that are needed to ensure that customers remain connected to essential utility

services when the emergency status ends. Emergency Interim Order at 7. The Emergency Interim Order did not request, or even suggest, that the proposed approaches had to be identical across the utilities. Such a directive would have caused significant delay due to the required extensive inter-utility analysis and coordination and thus would have been detrimental to the utilities' customers and their communities. ComEd's March 27 Response and its April 10 Reply showed that its offerings were appropriate to extend to its customers based on its knowledge of the customers' particular needs and the utility's existing structures. *See, generally,* ComEd March 27 Response; *see also* ComEd April 10 Reply at 7.

The AG's April 10 Reply seeks to use the fact that the utilities made different proposals as if that fact were evidence that uniformity were needed. AG April 10 Reply at 6-7. The AG's argument here is illogical and circular. The fact that the utilities devised different approaches is not evidence that they all should have come up with the same approaches. The opposite is true.

Third, the Intervenors' assertions that uniform credit and collections practices are necessary to prevent consumer confusion and to ensure that the same customer is treated the same by their different utilities is overstated and built on faulty assumptions. As ComEd explained, it has, and will continue to, provide its customers with information about the different assistance offerings and programs available. ComEd has provided, and will continue to provide, this information through a litany of communication channels, including but not limited to, press releases, online marketing, its web site, social media, radio, and other customer outreach methods, to reach as many customers as possible. *See, e.g.*, ComEd's March 27 Response at 4-5; Attachments B through F (discussing and providing examples of recent ComEd customer communications). Intervenors' argument that all utilities should provide the same offerings to individual customers also is specious. There are millions of Illinois utility customers who receive one or more utility service from utilities that are not subject to this Commission proceeding (such as ComEd customers who are also City of Chicago water customers, or Nicor Gas customers who are City of Naperville electric customers). Therefore, the emergency offerings provided by Illinois utilities will continue to differ for those customers, regardless of this proceeding. ComEd April 10 Reply at 7-8.

ComEd states expansion of this docket would be improper. The Intervenors' request that the Commission require all utilities to temporarily institute more uniform interim flexible credit and collection policies – that go beyond what is required by Part 280 – amounts to a request to turn this emergency proceeding, designed to quickly address urgent customer needs on a utility-by-utility basis, into a rulemaking proceeding. As such, it should be rejected. ComEd April 10 Reply at. 8.

Under the Illinois Administrative Procedure Act ("APA"), rulemaking proceedings are designed to be thorough and well-conceived. *See, e.g.*, 5 ILCS 100/Art. 5 ("Rulemaking Provisions"). Under the APA, "rule" is defined as "each agency statement of general applicability that implements, applies, interprets, or prescribes law or policy." 5 ILCS 100/1-70. *See also* 5 ILCS 100/1-90 (definition of rulemaking).

If the Commission is going to engage in a rulemaking, that choice must be clearly indicated at the beginning of the proceeding and then followed. 220 ILCS 5/10-101. Prejudicial violations of the APA can invalidate a Commission order. *E.g., Id*.

Part 280 of the Commission's Rules governs the credit and collection practices for the public utilities involved in this docket. *See* 83 Ill. Adm. Code 280.5, *et seq*. As part of the Commission's Rules, Part 280 may be modified by the Commission through a rulemaking proceeding, which are dockets designed to allow "all interested parties an opportunity to present ideas and language that will assist the Commission in formulating a policy on the issue" under discussion. *Revision of 83 Ill. Adm. Code Part 288*, Docket No. 11-0711, Initiating Order at 1 (Nov. 2, 2011).

Indeed, when the Commission initiated the most recent Part 280 rulemaking, which resulted in today's Part 280 rules, it dismissed then-pending dockets that were separately considering changes to Part 280 so that it could "comprehensively review" all issues involved in eligibility for service, deposits, payment practices, and discontinuance of service, and to produce an "internally consistent set of rules". *Revision of 83 Ill. Adm. Code Part 280*, Docket No. 06-0703, Initiating Order at 1-2 (Oct. 31, 2006). The Part 280 Rulemaking took eight years. *See, generally*, Docket No. 06-0703.

To try and overhaul Part 280 credit and collections practices now, even if the modifications are only "temporary", would essentially be an "end run" around well-established rulemaking process. The short duration of this proceeding would not give sufficient statutory/due process notice to all parties that may be impacted by the new rules, and it would undoubtedly curtail the detailed discussion, comprehensive review, and data-driven analysis that any Part 280 modifications deserve and require. ComEd April 10 Reply at 9.

There are provisions under which the Commission may issue interim orders to regulate utilities in emergencies for health and safety reasons, *see, e.g.*, 220 ILCS 5/8-508; 5 ILCS 100/5-45 ("Emergency rulemaking"), but the Commission has not invoked any of those provisions in this proceeding for the specific purpose of temporarily modifying Part 280. If the Commission were to do so, however, then there would still be statutorily mandated processes and procedures that must be followed, not only to comply with the statutes, but also to ensure due process. ComEd April 10 Reply at 10.

ComEd notes that the AG, in particular, has tried to convince the Commission to modify Part 280 in multiple dockets in the last two years. The Commission has recently rejected the AG's proposals in two separate non-rulemaking dockets. *See In re Ameren Illinois Co.*, Docket No. 18-1486, Final Order at 19 (Mar. 18, 2020) (rejecting the AG's DPA proposals in Ameren's uncollectible reconciliation docket because the "AG's proposals can be best addressed in a broader forum, such a rulemaking proceeding and workshops, to allow for multiple stakeholders to express their views."); *In re Ameren Ill. Co. d/b/a Ameren Ill.*, Docket Nos. 18-1008/18-1009 (Cons.) Final Order at 33-34 (Feb. 21, 2019) (rejecting the AG's DPA proposals in Ameren's Flex Pay Tariff docket because of "insufficient evidence" to find that the AG's proposals were superior to what Ameren was already implementing). The AG also introduced similar recommendations in four other utility reconciliation dockets, which are pending. ComEd April 10 Reply at 9-10.

COFI argues that if a failure to make temporary modifications to the utilities' credit and collection procedures results in thousands of disconnections then that would violate the utilities' obligation to serve under Section 8-101 of the Act, 220 ILCS 5/8-101. *E.g.*, COFI April 6 Response at 11-12. However, COFI's filings do not appear to, and cannot correctly, contend that ComEd's actions in this situation fall short of its legal obligations under Section 8-101 or otherwise. Moreover, COFI's argument is not a basis on which to require uniformity.

In addition, the Commission recently opened the Notice of Inquiry Regarding Energy Affordability, 20-NOI-01, on March 18, 2020 ("Affordability NOI"). The Affordability NOI is a more appropriate venue to review the existing Part 280 rules on credit and collections and analyze them using the data provided by the utilities in response to the NOI. ComEd April 10 Reply at 10.

3. Ameren's Position

The Intervenors recommend the Commission adopt a uniform approach for all utilities to follow to avoid unnecessary confusion in the transition to the recovery phase of this crisis. Ameren states that the AG asserted that maintaining consistency among utilities is critical coming out of the COVID-19 emergency status; however, Ameren points out that the Intervenors do not address the fact that all of the utilities that filed responses are all unique individual utilities. Ameren explains that these utilities are spread across the state, they vary by size, type of service, customer make up and financial capability to provide certain flexible credit and collection options, and the Intervenors did not account for these differences.

Ameren explains that COFI specifically recommended the Commission should (1) require a common set of minimum protections to be offered to financially struggling customers throughout the state; and (2) that the practices approved in this docket should be viewed as protections that can be expanded upon by a utility as it addresses the particular financial circumstances of a customer seeking assistance. COFI argues Part 280 supports its position and COFI asserts that the new proposed flexible credit and collections procedures will be "minimum" protections and should adopt a standard as such. However, Ameren explains that Part 280 does create a minimum set of procedures utilities must follow but it also gives the utilities discretion when applying these rules to customers. Utilities may go beyond what the rules provide to assist customers and that is what the Commission has requested utilities to do in this proceeding. Therefore, Ameren argues that there is not a need to adopt a standard, as COFI explained; Part 280 already allows this flexibility.

Additionally, Ameren explains that only the utilities are in the best position to know how to address the specific needs of their customers. Ameren further explains that while utilities in Illinois serve all customers, as asserted by COFI, this statement is misleading because utilities may only serve customers in their respective service territories. Ameren notes that utilities are unique, and their customer bases are unique as well and no two utilities have the same make up of customers. Ameren explains that while a blanket policy may look good on paper, the reality is that in extraordinary times such as these, each individual utility must do what is best for its customers, recognizing customers in different parts of the state are impacted differently by the pandemic. Ameren also explains, in

order to ensure safe and reliable service, the Commission should not force a utility to adopt flexible credit and collection procedures that may jeopardize its ability to finance the day to day operations and routine maintenance to its systems.

4. Large Water Utilities' Position

Aqua, Illinois-American and USI ("the Large Water Utilities") explain that they appreciate, but oppose as not practically workable, Intervenors' proposals for standard credit and collections procedures for all utilities.

The Large Water Utilities point out that the AG acknowledges that "[t]he purpose of this proceeding . . . is for the Commission to review whether the utilities' [more flexible credit and collections] proposals satisfy the Commission's directive . . . ." AG April 6 Response at 6. That is, this is largely a compliance proceeding. Yet, the Large Water Utilities contend, the AG, as well as COFI, Mr. Cherry, and City-CUB, never opine whether any individual utility's plan itself satisfies the Commission's directive. Instead, Intervenors each advocate a separate suite of credit and collections procedures of their own: modified practices that they argue should be employed by all Illinois utilities (whether gas, electric distribution, water, or sewer) in short order, statewide.

The Large Water Utilities recognize the economic hardship that customers are facing given the COVID-19 emergency and do not question the basis for Intervenors' proposals. The Large Water Utilities note that customers affected by the emergency are contacting the Large Water Utilities' customer service centers and approaching their field workers. The Large Water Utilities' also note that their employees and their families, like their customers, are experiencing the personal and professional burdens imposed by the COVID-19 emergency. Simply, the Large Water Utilities state, no one is entirely isolated or immune from the pressures of the pandemic. So, without question, the Large Water Utilities appreciate the sentiment underlying Intervenors' proposals.

The Large Water Utilities take the position, however, that, well-intentioned as they are, Intervenors' proposals are not practically workable, particularly in the short timeframe of this docket and given the temporary nature of the needed revised utility credit and collections procedures. The Large Water Utilities' state that their foremost concern today is assisting, to the extent feasible and reasonable, the most customers, in the most need, in the fastest manner—to provide continued water and wastewater collection and treatment services to enable the handwashing, sanitation, and hydration that are so vital during the COVID-19 emergency. The Large Water Utilities believe that the Commission must afford them the flexibility to do that.

Accordingly, the Large Water Utilities recommend that the Commission reject the Intervenors' proposals. As the Large Water Utilities explain, those proposals are contrary to the Commission's Emergency Interim Order, unworkable given the emergency situation, and underdeveloped as the Intervenors do not address the cost of their proposals to customers, the procedural propriety of their proposals, or even whether their proposals would be as effective as what the Large Water Utilities have proposed to do or are already doing in response to the COVID-19 state of emergency.

The Large Water Utilities maintain that Intervenors' proposals that the Commission impose new, standard credit and collections procedures on "all" utilities disregard the

Commission's directives in initiating this proceeding. The Large Water Utilities point out that, as the AG acknowledges, the purpose of this proceeding is to address *each* utility's compliance with the Commission's latter directive, not to revisit the Commission's Part 280 Rules, 83 Ill. Adm. Code, Part 280 ("Procedures for Gas, Electric, Water and Sanitary Sewer Utilities Governing Eligibility for Service, Deposits, Billing, Payments, Refunds and Disconnection of Service"), wholesale.

The Large Water Utilities next contend that it is undisputed that time is of the essence here, and so modified procedures developed without specific regard to individual utilities could pose barriers to timely implementation. To begin, the Large Water Utilities state, the differing proposals for such procedures are inconsistent. They advocate three *different* sets of standard procedures for the Commission to consider. Thus, the Large Water Utilities note, a decision to apply uniform practices, even if warranted, would leave the Commission having to weigh the Intervenors' competing proposals to decide which, if any, could work—in just several weeks' time.

Further, the Large Water Utilities point out that for the Commission to adopt statewide and industrywide revised utility credit and collections procedures now would be tantamount to imposing upon all Illinois public utilities temporary revised Part 280, regardless of the service that each utility provides, its size, its corporate structure, and its cost of compliance. But such a "one size fits all" approach is not practicable, especially now.

The Large Water Utilities believe that compliance with a "one size fits all" approach takes time. They point out that, when the Commission ultimately adopted the revised Part 280 Rules in November 2014, it permitted utilities another *eighteen months*, until May 2016, to bring their billing, payments, credit, collections, and disconnections practices into compliance. 83 Ill. Adm. Code 280.15. Here now, as then, customer service representatives would require training on new procedures, and systems and practices would need to be modified, or new systems and practices implemented, if the Commission imposed across the board modifications to the Part 280 Rules, as Intervenors advocate.

The Large Water Utilities, each with sister companies operating in numerous states, explain that this could prove particularly difficult. Any changes in Illinois must be coordinated with the customer service operations of the entire system. So, entire systems may need to be retooled. The Large Water Utilities explain that just cannot happen in short order—at least without significant burden and the consequent potentially significant cost to customers.

The Large Water Utilities further maintain that the Intervenors' proposals are underdeveloped as they do not address several key considerations: the cost impact on customers, the procedural propriety, or the actual effectiveness of what they advocate. For this reason, as well, the Large Water Utilities explain, the Commission should reject Intervenors' proposals.

Accordingly, the Large Water Utilities take the position that utilities should individually adopt flexible credit and collections procedures to provide workable solutions in the shortest feasible timeframes. The Commission directed in its Emergency Interim Order that each utility propose—in very short order—its own temporary, revised, and

more flexible credit and collections procedures to provide all customers continued access to essential utility services for at least six months after the COVID-19 state of emergency. That directive enabled each utility to design more flexible policies that the utility can readily implement given its size and corporate structure, that are consistent with the utility's existing tariffs, practices, and procedures, and that are tailored to the unique needs of the utility's customer base. The Large Water Utilities maintain that approach is appropriate as it provides workable solutions in the shortest feasible timeframe.

5. Nicor Gas' Position

It is Nicor Gas' position that a statewide mandate to the utilities to implement the same credit and collections procedures is neither necessary nor permissible. Nicor Gas April 10 Reply at 5. Nicor Gas argues that each individual utility must be permitted to execute its individual credit and collections plan without regard to the actions of any other utility. *Id*.

In response to the Intervenors' contentions that a statewide mandate regarding credit and collections procedures is necessary, Nicor Gas first notes that the Intervenors' proposals effectively seek temporary amendments to the statewide standards found in Part 280 of the Commission's rules, which were the subject of more than a decade of litigation. Nicor Gas April 10 Reply at 6.

Nicor Gas also argues that the existence of Part 280 does not indicate that any temporary credit and collections policies must be uniform statewide. Nicor Gas points out that Part 280 acknowledges the Commission's policy that the utility standards of service embodied therein "shall be viewed as the minimum standards[,]" but that utilities also maintain the discretion "to expand or supplement the customer rights guaranteed by these provisions as long as those policies are applied in a nondiscriminatory manner." *Id.* at 6 (*quoting* 83 Ill. Adm. Code 280.5). That provision continues by stating that "[t]he 'nondiscriminatory manner' requirement shall not be construed or interpreted to require a utility making an accommodation to a customer in a hardship situation to make that same accommodation for all customers facing a similar hardship." *Id*. at 7 (*citing* 83 Ill. Adm. Code 280.5).

Thus, according to Nicor Gas, Part 280 expressly allows for utility discretion to implement standards above the minimum standards, which, in turn, allows for different accommodations between utilities, and even between different customers of the same utility. *Id.* at 6-7. Nicor Gas submits that this policy makes sense in light of the fact that there are very practical differences among circumstances for customers in different parts of the state, or even among different customers in the same utility service territory. *Id*.

Nicor Gas asserts that a statewide mandate regarding credit and collections procedures is neither necessary nor permissible in light of the Commission's rules, the thoughtful plans submitted by the utilities, and the reporting Staff recommends in the post-emergency period. *Id.* at 7. However, Nicor Gas is not opposed to certain additional accommodations should the Commission determine to endorse those additional actions. *Id*. These accommodations would be in addition to the actions that Nicor Gas committed to in its initial response, and Nicor Gas would expect such procedures to remain in place for a period of only six months after the end of the public health emergency, which is the timeframe Staff endorses and is contemplated by the Emergency Interim Order. *Id*.

6. NSG-PGL's Position

NSG-PGL emphasizes that nothing in the Emergency Order requires full uniformity in utility plans, and any such suggestions should be rejected in the context of this emergency proceeding. NSG-PGL notes that the Intervenors suggest that this emergency proceeding should result in state-wide uniform application of the modified utility credit and collections policies that will be implemented by the various utilities in response to the COVID-19 health emergency. NSG-PGL strongly opposes that suggestion.

NSG-PGL observes that nothing explicit or implicit in the Emergency Interim Order requires the type of uniformity suggested by the Intervenors. NSG-PGL argues that had the Commission contemplated that approach, it seems highly likely that either the Emergency Interim Order, or a subsequent clarifying order from either the Commission or the ALJ, would have made that clear. However, NSG-PGL notes that no direction for full uniformity has been suggested in any order.

NSG-PGL points out that there is no inherent problem in having different credit and collections approaches for different utilities, depending on their systems, when it comes to issues of deposits and fees, debt collection, DPAs, reconnection, and outreach to customers to inform them of available relief. NSG-PGL suggests that rather than requiring utilities to modify systems wholesale to achieve a theoretical goal of state-wide uniformity, it would be much wiser to allow each utility to use its resources to make appropriate modifications to its own systems and processes as quickly as possible to address the immediate emergency conditions.

NSG-PGL states that the Intervenors' claims that customers will be confused by the utilities' differing approaches to revised credit and collections procedures are overblown. NSG-PGL points out that most customers currently receive service from different utilities for electric, gas, water, and sewer, and in many cases receive internet and phone service from yet additional providers. Each of these utilities and providers have different terms of service and likely different credit and collections procedures. What the utilities have proposed here – and Staff has endorsed – merely continues the status quo.

NSG-PGL emphasizes that nothing in the Emergency Order requires or authorizes a broad rewrite of Part 280, and any such suggestions should be rejected in the context of this emergency proceeding.

NSG-PGL notes that Staff's response recommends a reporting protocol "to monitor the effectiveness of each utility's revised credit and collection procedures…." Staff April 6 Response at 14. NSG-PGL generally supports that protocol as an appropriate mechanism to both achieve and continuously evaluate the Commission's goals in this docket as set forth in the Emergency Interim Order. NSG-PGL states that to its credit, Staff's proposal is tailored to address the difficult circumstances giving rise to this emergency proceeding but does not use the emergency proceeding as a means to rewrite the Commission's Part 280 rules generally.

NSG-PGL observes that in contrast to Staff's approach, the Intervenors propose to use this docket as a vehicle to broadly rewrite the Part 280 rules. NSG-PGL strongly

opposes those recommendations. According to NSG-PGL, this emergency, expedited proceeding is neither the time nor the place to rewrite Part 280, and the Commission's Emergency Interim Order provides no explicit or implied basis for such action at this time.

NSG-PGL also notes that on March 18, 2020, the same day that it issued the Emergency Order, the Commission opened the NOI regarding energy affordability. The NOI addresses numerous items directly related to Part 280 and conveys quite plainly the Commission's intention to study Part 280-related data and information in that forum. NSG-PGL argues that had the Commission intended to use this expedited, emergency proceeding to rewrite Part 280, initiating the NOI would have been a moot act.

NSG-PGL states that attempting to shoehorn a wholesale rewrite of Part 280 in this emergency proceeding is both procedurally and substantively inappropriate. NSG-PGL notes that, as the intervenors themselves highlight, the circumstances facing Illinois and the United States are dire and require immediate action, and immediate action is what the Commission's Emergency Interim Order requires, and that is what NSG-PGL and the other utilities have done. NSG-PGL emphasizes that, as the NOI initiating order shows, a broad rewrite of Part 280 is an entirely different question from the need for immediate action in the face of the COVID-19 emergency. NSG-PGL argues that the NOI initiating order clarifies that much more information collection and deliberation is required before the Commission would even consider initiating a rulemaking to amend Part 280 on a permanent basis. *See* NOI Initiating Order at 3 ("[T]his NOI is not a rulemaking, and the information gathered may or may not form the basis for the initiation of [a] rulemaking or other purposes at a later date."). According to NSG-PGL, this is consistent with the statutory scheme for changing the utility regulations, which contemplates an information gathering process, potentially including workshops, before changes are made. 2. Ill. Adm. Code 1700.310.

In summary, according to NSG-PGL, the Commission and all parties should keep their collective eye on the pressing emergency through implementation of the credit and collections steps required by the Emergency Interim Order. Resources should not be wasted aiming for a theoretical standard of state-wide uniformity, or by attempting a wholesale rewrite of Part 280 in this expedited, emergency proceeding.

7. IGC's Position

While IGC understands the arguments for standardized credit and collections procedures, it is concerned that a one-size-fits-all approach may not be in the best interests of customers of smaller utilities like IGC. As of March 31, 2020, IGC has 9,590 accounts among the downstate counties of Richland, Lawrence, and Jasper. IGC employs three customer service representatives in its Olney, Illinois office, and the Corporate Secretary can assist with customer service matters as needed. Unlike some of its larger utility counterparts, IGC customer service representatives personally know most of IGC's customers. IGC April 10 Reply at 2. For many years IGC has tailored its efforts to assist customers experiencing financial hardship and fully intends to continue to do so. Fortunately, the largest employer within IGC's service territory, a Wal-Mart distribution center, is considered an essential business and is still operating. Nevertheless, IGC is already noting the accounts of customers who have lost employment due to COVID-19 and may experience difficulty paying for gas service. *Id.* at 3.

8. Mt. Carmel's Position

Mt. Carmel is not in favor of a statewide uniform mandated credit and collection policies and procedures. From the date of the Emergency Interim Order to May 1, 2020, just over six weeks are allowed for entry of an order. This is clear indication of the limited scope of this docket as a compliance proceeding and not a rulemaking.

First and foremost, the Commission in its Emergency Interim Order did not appear to contemplate a uniform statewide policy. Each utility was directed to file a plan; the utilities were not directed to collectively file a plan. Therefore, for the Commission to order a uniform policy would be beyond the scope of the Emergency Interim Order which initiated this compliance docket. The utilities did not anticipate a uniform policy when this docket was commenced which would be inconsistent with principles of administrative law. Further, ordering a uniform policy would deprive the utilities due process.

Staff in its Reply also agreed with the foregoing paragraph. It recognized the fact this is a compliance docket; the need for due process; that as a matter of law, utility officers and executives have a fiduciary obligation to utility shareholders to act in their interest; and that implementation of the Intervenors' proposals would create significant costs to the utilities. In spite of that, Staff suggested a "modified" uniform and standard set of measures to be used. This position is completely contrary to the arguments Staff made earlier in its Reply as to why there should not be a uniform or standard plan. Staff's suggestion should not be implemented. If so, a small utility exemption (those having less than 10,000 customers) should be allowed.

The Intervenors wish to alter 83 Ill. Adm. Code 280 without this being a rulemaking or even an emergency rulemaking. Even if it were found to be an emergency rulemaking, the time frame for which an emergency rulemaking order could last would be far eclipsed by the proposals of the Intervenors when considering their proposed durations of DPA's (up to 24 months) and other suggestions. The 150-day allowance for an emergency rule is even shorter than the 6-month post moratorium period (approximately 180 days) let alone the two or more years proposed.

The Intervenors also suggest a 60-day grace period from disconnections and late payments after the moratorium period. The Commission determined a set timeline or boundary for the moratorium. Extending it by 60 days is contrary to the original intent of the Emergency Interim Order. Doing so would only add to the downward spiral of debt that the customer is incurring and increasing the cost to the utilities. If this grace period is allowed, there should be a small utility exemption.

If the Commission develops a uniform policy or plan, Mt. Carmel would suggest that an exemption for utilities with less than 10,000 customers be included in the order. The cost and time for implementation would far outweigh any benefits the customers might receive. Mt. Carmel knows its customer base and works with them on a regular and routine basis to assist in keeping them in service.

9. Consumers' Position

Consumers agrees with other utilities that the Emergency Interim Order did not contemplate adoption of uniform credit and collections procedures. First of all, the actual language in the Commission's Emergency Interim Order does not support Intervenors'

position. It provides in part that "*each Illinois … utility shall design and implement* on a temporary basis more flexible credit and collections procedures and file them for Commission consideration and approval…." Directing each utility to design and implement such procedures supports the utilities' position that the Order contemplates utility-specific procedures. Such a reading is also consistent with the fact that the short timeframe is not sufficient to give meaningful consideration to a more comprehensive undertaking that would be required to develop uniform standards. As some utilities have commented, what Intervenors are proposing is more akin to a rulemaking without observing applicable rulemaking procedures. Furthermore, even though Intervenors" proposals are similar, they did not present a uniform proposal.

In the event the Commission nevertheless decides that uniform standards should be adopted instead of individual utility plans, Consumers recommends that it be granted a limited waiver. Such a waiver would allow small utilities, like Consumers, to get relief from some of the burdens associated with complying with uniform standards and related reporting requirements. Consumers is a very small utility, with only 5,226 customers. Administrative staff is limited, and some are working from home due to the COVID-19 pandemic. The requested waiver is limited in scope. It would allow Consumers to avoid some of the extensive number of administrative and technical burdens associated with complying with the uniform standards and related reporting requirements, while still providing its customers with substantial relief.

10. MidAmerican's Position

MidAmerican disagrees with the Intervenors' arguments that the Commission must issue uniform statewide credit and collection procedures to avoid confusing and burdening customers. MidAmerican April 10 Reply at 3-4. MidAmerican counters that adopting standard rules of conduct applicable to all jurisdictional utilities is more appropriately accomplished through a rulemaking and not a contested case proceeding. While the APA allows the Commission to adopt rules on an emergency basis, MidAmerican notes what it sees as certain deficiencies in adopting credit and collection policies using an emergency rulemaking, including the 150-day limit on the effective period, and the two-year prohibition on adopting the same rule by emergency means. According to MidAmerican, those facts, coupled with Part 280's complex nature and the eight-year period required to adopt the most recent revisions make it highly improbable that the Commission intended to adopt rules of general applicability in this proceeding.

Additionally, MidAmerican claims the AG, City-CUB and COFI fail to highlight the significance of Part 280's flexibility. According to MidAmerican, Part 280 amounts to minimum policies, which can be expanded or supplemented as long as done in a nondiscriminatory manner. So despite the AG, City-CUB and COFI's arguments to the contrary, MidAmerican believes Part 280 was never designed to ensure that each and every customer received exactly the same treatment in all respects—a goal MidAmerican believes impossible in light of the varying size and business models of Illinois utilities.

Instead, MidAmerican argues that Part 280 represents the minimum protections the Commission guaranteed customers after a lengthy review to understand the impact on utilities of all sizes. MidAmerican argues that the Emergency Interim Order recognizes the individual flexibility included in Part 280 by requesting "each" utility propose more

flexible credit and collection procedures. MidAmerican claims this allows the utility to propose options that work best for its customer base. In light of this, MidAmerican asks the Commission to review each proposal to assure that it is consistent with the goals of the Emergency Interim Order and, in fact, more generous than the Part 280 standards.

11. Liberty's Position

Liberty disagrees with the Intervenors' proposals that this docket become a shortened rulemaking proceeding, essentially adopting a new and temporary version of Part 280. Staff, in particular raised serious doubts about the Commission's legal authority to order sweeping statewide changes to Part 280. Intervenors did not suggest a legal basis for the Commission to mandate specific credit and collections (and other) procedures.

Liberty argues that its and other utilities' responses in this docket demonstrate that a statewide mandate is not necessary or desirable. Intervenors' responses focus on customers of large utilities in the largest urban areas in the state, do not take into account the ability of smaller utilities to respond to customers on a case-by-case basis, and do not recognize that different utilities may be able to muster different resources in response to the crisis. By giving each utility the ability to respond as best it can, Liberty believes the Commission will avoid squandering utility resources (and ratepayer dollars) on ineffective and inefficient activities mandated under a one-size-fits-all approach.

Consistent with its general position that there should not be uniform mandates, Liberty states that none of the specific practices recommended by the Intervenors (or those included by Staff in its alternative proposal) should be mandated. On most points, Liberty has already implemented procedures, often that go beyond the suggestions of the Intervenors or Staff. Liberty's small size (less than 25,000 customers in Illinois) means that it is in the best position to determine the right mix of flexible credit and collections measures to be applied in its service area due to Liberty's knowledge of its customers and resources.

12. AG's Position

The AG maintains that the Commission has the authority pursuant to the Act to issue the Emergency Interim Order and subsequent orders addressing temporary credit and collection procedures. The AG notes the Commission's broad authority to perform any act necessary to ensure the health and safety of customers and the public in this time of worldwide pandemic. *See* 220 ILCS 5/8-505. The Commission referred to its authority to "regulate the furnishing of service . . . whenever and to the extent such action is required by the convenience and necessity of the public … by reason of a catastrophe … [or] emergency[.]" *See* Emergency Interim Order at 3, *citing* Section 8-508 of the Act. The Commission, with its general authority to supervise the utilities and its authority to act to ensure health and safety, also has the authority to require uniform temporary credit and collection procedures and to modify those procedures if they prove ineffective to ensure customers remain connected to essential utility services.

The AG maintains that the Commission's authority to enact temporary uniform credit and collection procedures relies on the Act and Part 280, which establishes minimum credit and collection standards. Utilities currently operate under Part 280 and

may not offer customers less than what is required by the Rules. Part 280 "shall take precedence over any inconsistent utility tariff, [unless approved by the Commission] and shall be viewed as the minimum standards applicable to gas, electric, water and sanitary sewer utilities." Ill. Adm. Code. 280.5. However, the AG notes that utilities may go beyond the minimum standard set out in Part 280, and that Part 280 encourages utilities to "… mak[e] an accommodation to a customer in a hardship situation …" *Id.*

The AG argues that the protections of the disconnection and late fee moratorium should continue for at least a 60-day grace period, which would begin when the emergency status ends. "[T]o ensure that customers remain connected to essential utility services when the emergency status ends" (Emergency Interim Order at 6), there must be a transition between crisis and recovery. The AG maintains that a successful transition requires this grace period, during which time customers can leave their homes, seek employment, start to reestablish income stability, and work out DPAs with their utilities. The protections provided by the moratorium (e.g., no disconnection, no late charges) should continue through and until the end of the grace period.

13. City-CUB's Position

City-CUB acknowledge the Emergency Interim Order directives as an effective response for the short term of the Commission's emergency authority. However, any extension of those mandates must also clarify how they should be implemented. Though the Emergency Interim Order requires that "temporary flexible collection procedures should apply to all classes of utility customers," City-CUB argue that the Emergency Interim Order does not specify how flexible or complete those arrangements must be. City-CUB suggest that tiny changes not designed to assure continued utility connections do not satisfy the Commission's directive. City-CUB observe that while late payment penalties are barred, for example, the utilities do not all address, or uniformly describe, their plans regarding reports to credit agencies or directions to their collection agents. City-CUB conclude that the Commission must provide more complete descriptions of the intended effects of its already ordered (and potentially extended) accommodations.

In addition to evaluating and modifying proposals of the responding utilities, City-CUB proposed enhancements to certain utility proposals to modify procedures in response to current and future impacts of the COVID-19 pandemic. According to City-CUB, their proposed changes are compelled by practical difficulties attributable to the COVID-19 pandemic, and the failure of utility-proposed accommodations to achieve the prime objective of the Emergency Interim Order – to "ensure that essential utility services that are required to maintain public health and safety during this global pandemic emergency are available to all customers." Emergency Interim Order at 3.

City-CUB argue that the Commission-ordered Part 280 accommodations, both during and after the declared emergency period, must account for the special conditions relevant to Part 280 procedures distorted by effects of the pandemic.

City-CUB also emphasize another characteristic of the ordered Part 280 accommodations - they must be consistent across utilities. City-CUB conclude that, whatever COVID-19 pandemic accommodations the Commission ultimately orders, they must comprise a consistent, minimum slate of Part 280 adjustments that is offered by all Illinois utilities and is reliably available to all Illinois consumers. City-CUB would have the

Commission define that slate of minimum accommodations by aggregating best practices (planned or already in place) from the utilities' filings. That "best practices" level of response, reliably and consistently available to consumers, City-CUB maintain, is essential for effective operation and to avoid consumer confusion.

City-CUB acknowledge that the Emergency Interim Order directly addresses the need for continued accommodations during the periods after expiration of the Emergency Interim Order and after the pandemic emergency ends. For the reasons articulated in the Emergency Interim Order, City-CUB argue that the revised utility policies must match the extraordinary nature of the public health and economic challenges facing Illinois utility consumers for the foreseeable future. Just as important, they insist, the circumstances require clarity and consistency – across all utilities – in the scope and particulars of the ordered changes to billing, credit and collection policies and procedures governed by Part 280. Already anxious consumers, City-CUB argue, must know what accommodations utilities are required to provide and what relief they can be confident is reliably available.

City-CUB assert that consumers' worries about available employment and regular income are likely to persist for many months. They argue that uncertainty about changes to their rights, their obligations, or the status of their essential utility services adds unnecessary stress for already anxious consumers. In the midst of frequent updates from public health officials, City-CUB contend that consumers are already challenged to keep abreast of life-affecting information and directives. Creating a need for consumers to track and parse individual utilities' unique, fluid (*see e.g*., Ameren March 27 Response at 2) policy changes, City-CUB claim, is an unnecessary and easily avoided misstep.

City-CUB state that as a group, the utilities have considered an extensive list of possible accommodations to comply with the Commission's emergency mandates or respond to the need for continued adjustments post-emergency. However, with respect to both implementation of the emergency mandates and proposals supplementing the emergency directives, City-CUB again find that the utilities' proposals are inconsistent and assert that the changes will be difficult for consumers to follow.

City-CUB observe that accommodations a consumer hears about from her gas supplier may not be available from her electricity supplier. Similarly, City-CUB note that particular accommodations discussed on the evening news may not be offered by any of a consumer's local utilities. The City and CUB argue that tracking whether and how even a single utility may have modified available accommodations over time, needlessly burdens consumers, when they are properly more focused on household safety, health, and job recovery.

The Emergency Interim Order's own initial directives, City-CUB argue, adopt the proper approach – a uniform, minimum slate of accommodations, which every Illinois utility consumer can be assured is available. City-CUB strongly endorse that approach in this Order. Collected "best practices" from the Emergency Interim Order and from the responding utilities' filings should comprise that base (minimum) slate of universally available pandemic accommodations.

City-CUB argue that these adjustments must be maintained during the period of the public health emergency, and (as contemplated by the Commission's announced follow-on proceeding) throughout the unavoidable transition period to more normal

economic circumstances, unless an individual utility can demonstrate a particular need for small modifications to the accommodations. Finally, City-CUB insist that, in this era of unprecedented challenges, the flexibility that Part 280 grants utilities – to act more favorably for consumers than regulations require – must be maintained, and where circumstances indicate, used.

14. COFI's Position

COFI states that in response to the Emergency Interim Order, no two utilities offered the same proposals. The varied responses highlight, first and foremost, the need for specific Commission action requiring *consistent, statewide* flexible best practices. Fundamentally, a utility customer's ability to obtain more flexible payment terms and flexible C&C protections should not vary based on the person's address or utility service territory. Stated another way, a customer residing on the east side of Austin Boulevard in Chicago (a Peoples Gas customer) should not be offered protections that differ from her neighbor directly across the street in Oak Park (a Nicor Gas customer) and vice versa.

The Commission's existing rules require statewide, minimum protections that speak directly to the need for uniform protections and should guide the Commission's approach to requiring consistent utility proposals. The initial provisions of Part 280 should guide the Commission's approach to requiring consistent utility proposals. These provisions make clear the Commission's intention that the same *minimum* consumer protections are necessary to be applied by *all* utilities, and not at a utility's or individual customer service representative's ("CSR") discretion. Further, these general provisions emphasize that the utilities implementing the rules are to view them as *minimum* protections that can be expanded upon as individual circumstances demand.

COFI states that it is within this framework that the revised, emergency C&C protections should be viewed; that Commission action is needed to (1) require a common set of *minimum* protections to be offered to financially struggling customers throughout the state; and (2) that the practices approved in this docket should be viewed as protections that can be expanded upon by a utility *as it addresses the particular financial circumstances of a customer* seeking assistance. The goal for all utilities is to assist each customer in remaining connected to the utility network. Understanding that these would be minimum protections recognizes that no two customers' financial crises will be alike.

The Commission made clear in its Emergency Interim Order its statutory authority to take all necessary actions dictated by the Governor's Emergency Order to protect the health and safety of Illinois utility customers, and help ensure access to essential, affordable utility service during a global pandemic and near total economic shutdown. Implementing temporary, statewide credit protections surely fits within that authority, contrary to Staff's viewpoint. To approve haphazardly applied and mismatched C&C affordability protections between and among the various utilities will constitute an abrogation of the Commission's obligation to "regulate the furnishing of service" during an emergency, as Section 8-508 requires, and to ensure that financially troubled and low income customers throughout the state have access to uniform, affordable utility service in the uncertain months ahead.

The need for a Commission finding that these will, again, be *minimum* protections that require an entirely more flexible and individualized utility response to customers

facing unaffordable bills should be rooted, too, in a recognition that we, as a society, have not been here before. While the true extent of the financial fallout and the permanent changes to the economy that are coming remain unclear, the Commission's decision in this docket must be informed by what we know today. Publicly available data during this extraordinary global pandemic, both in terms of the number of persons testing positive for COVID-19, and the economic fallout that has resulted from the closing of non-essential businesses within the state, provide a vivid backdrop for the Commission's evaluation of the insufficiency of the utility plans submitted.

COFI requests that the Commission take administrative notice, pursuant to 83 Ill. Adm. Code 640, of significant data which makes clear that we as a society, and certainly the Commission, are just beginning to understand the extent and length of the economic fallout resulting from the pandemic – particularly for low-income consumers. *See, e.g.* COFI April 6 Response at 9-15. Illinois utilities' obligation to serve *all customers,* which accompanies their status as monopoly providers of essential utility services, must adjust to this new reality with robust and flexible protections that acknowledge the financial cliff low-income customers will face when utility and eviction moratoria are lifted.

The provision of more flexible utility collections practices is today more than ever a critical function of a utility's obligation to serve. Failure to sufficiently modify C&C procedures, resulting in the disconnection of thousands of low-income utility customers would constitute a violation of the obligation to provide service outlined under Section 8-101 of the Public Utilities Act: service that "*shall be in all respects adequate, efficient, just, and reasonable.*" 220 ILCS 5/8-101.

COFI urges the Commission to acknowledge this new economic reality for thousands of existing and new low-income utility customers, along with the utilities' obligation to serve *all customers* throughout the state, and in a way that is "in all respects adequate, efficient, just and reasonable," as it makes findings establishing more flexible, minimum C&C protections for the near future.

15. Cherry's Position

Mr. Cherry states that it simply does not make sense and is inequitable to do piecemeal what amounts to temporary modifications of Part 280, which is uniform and statewide. A number of good policies support the conclusion that there should be minimum uniform standards.

According to Mr. Cherry, the utilities, some better than others, have done a good job of publicizing that there is a moratorium on shutoffs. That is a simple, straightforward message. Consumers should be made clearly aware of their various rights and responsibilities. This will be difficult and perhaps impossible without uniformity. There also is an equity component to this. The utilities propose differential treatment based on which utility serves the customer and where that customer lives. There is no justification for differential treatment of the same customer by each of two or more utilities. There is no justification for differential treatment of a consumer from a neighbor.

The recent revision of Part 280 faced this issue and the Commission rightfully concluded that a uniform, statewide general order is the best approach. Having 12 different programs in the State is the antithesis of this and will cause harm and confusion.

It is incumbent on the utilities in this proceeding to meet the burden, and it should be a heavy burden, of showing why customers should be treated differently based on the type of utility service, where they live and the size of their utility's customer base.

Mr. Cherry states that the shutoff moratorium enacted by the Commission creates an unintended difficulty for Department of Commerce and Economic Opportunity ("DCEO"). It is good that utilities will not be disconnecting people and that utilities will not be communicating disconnection threats. That, however, will create difficulties in getting money to households that need it because they will be not disconnected and not "imminently" threatened with disconnection, which is an eligibility requirement under current rules. There is also a technology issue. Not all administering agencies have sufficient equipment to allow workers to process applications from where they are sheltering.

16. Commission Analysis and Conclusion

See Section III.K. below.

B. RECONNECTIONS

1. Staff's Position

Staff sees merit in reconnecting customers and waiving reconnection fees until the end of the COVID-19 public health emergency, except (a) when reconnection would compromise safe operations, (b) when the utility has proof that the customer benefitted from tampering, or (c) when premises are vacant or unoccupied.

2. ComEd's Position

ComEd has been helping customers to reconnect if they previously were disconnected for non-payment. ComEd March 27 Response at 7; ComEd April 10 Reply at 15, 16, 18. On April 8, 2020, ComEd filed its Verified Petition for Special Permission to File and Put Into Effect, on Less Than 45 Days' Notice, Tariff Modifications to Reduce Certain Fees to Zero During the COVID-19 Public Health Emergency, Docket No. 20-0378 (Apr. 8, 2020), which seeks Commission approval, on less than 45 days' notice, of ComEd's proposed modifications to specific Billings and Payment subsections of its General Terms and Conditions tariff in its Schedule of Rates (ILL. C. C. No. 10), to, in part, set reconnection fees to $0 for the Moratorium Period.

3. Ameren's Position

Ameren Illinois explains that COFI requests the Commission to order the utilities to reconnect anyone who has been disconnected for non-payment without providing any type of parameters related to the timing of the disconnection. Ameren Illinois notes this vague and broad request could be interpreted as anyone who has ever been disconnected for non-payment should be reconnected. Ameren Illinois explains the Commission cannot adopt such a broad recommendation because it would not further the mission of the Emergency Interim Order. Ameren Illinois explains that the intent of the Emergency Interim Order is to provide flexible credit and collections policies to utility customers, which is what the utilities have done in this proceeding. Furthermore, Ameren Illinois explains it is not necessary to adopt such a broad recommendation because Ameren Illinois has not disconnected any residential customers for non-payment since

the beginning of the winter moratorium for nonpayment. The winter moratorium was in effect prior to the Commission's Emergency Interim Order and therefore there is no need to introduce ambiguity regarding the Commission's call for a moratorium on disconnections. Accordingly, Ameren Illinois recommends the Commission reject COFI's recommendation to reconnect all customers previously disconnected for non-payment.

4. Large Water Utilities

The Large Water Utilities note that the Intervenors propose varying reconnection practices that they argue should be applicable to all utilities, regardless of each utility's service type, tariffed rates, terms, and conditions of service, regions served, billing and collection system, or customer base. The Large Water Utilities oppose imposition of statewide mandated credit and collection policies and procedures as contrary to the Commission's Emergency Interim Order, unworkable given the emergency situation, and underdeveloped in terms of cost impact, procedural propriety, and actual effectiveness. Nevertheless, the Large Water Utilities explain they are already reconnecting previously disconnected customers at no charge.

5. Nicor Gas' Position

Nicor Gas is addressing requests for reconnection on a case-by-case basis and will continue to do so for a period of six months following the end of the emergency.

6. NSG-PGL's Position

NSG-PGL acknowledges that Staff has recommended that utilities be required to reconnect customers and waive reconnection fees until the Governor announces the end of the COVID-19 public health emergency, with three exceptions. *See* Staff April 10 Reply at 8. NSG-PGL opposes Staff's recommendation and any other similar proposals on reconnections.

NSG-PGL agrees with Ameren's view that a broad reconnection requirement would go well beyond the contours of the revised credit and collections practices that are the core of the Commission's Emergency Interim Order. *See* Ameren April 10 Reply at 15; *see also* IGC April 10 Reply at 3, n.1 ("IGC notes that this recommendation may also exceed the scope of the credit and collections parameters set forth in the [Emergency Interim Order]."). NSG-PGL also agrees with IGC's view that in some cases mandatory reconnection may actually be contrary to a given customer's decisions on its own best interests. *See* IGC April 10 Reply at 3-4.

Moreover, in NSG-PGL's view, a broad requirement to reconnect all prior customers during the COVID-19 emergency would be burdensome and impractical and would also raise concerns about the safety of both utility employees and customers. Reconnection of natural gas service is relatively resource-intensive, and in most cases is more resource-intensive than reconnection of electric service. A blanket requirement to reconnect all prior customers immediately would create a significant, unanticipated burden on NSG-PGL's allocation of workforce power during the COVID-19 emergency.

In addition, NSG-PGL explains that reconnection of natural gas service often requires utility personnel to enter the physical space of the customer's service location. Entering customer homes and businesses may be difficult given the current social distancing requirements. In addition, regardless of whether social distancing can be

achieved, the entry of utility personnel into customer homes or other physical space may pose a potential health risk to utility personnel, utility customers, and the general public.

Further, NSG-PGL argues that it has not disconnected any low-income customers for non-payment since December 1, 2019 under Illinois' winter disconnection moratorium, so there is no reasonable basis to require reconnection, without payment of disconnection fees, of customers who were disconnected months before the COVID-19 public health emergency was declared.

NSG-PGL acknowledges that it performs reconnections of customers on a case-by-case basis as part of its standard operating procedure, and commits to continue that practice, to the extent it can be performed with appropriate social distancing and without unduly compromising utility personnel or customer health and safety.

7. IGC's Position

IGC maintains that COFI's recommendation to reconnect all previously disconnected customers is arguably not appropriate for all utilities. As of March 13, 2020 (the last business day before implementing the moratorium on disconnections), IGC had previously terminated service to 20 customers for nonpayment. As of April 10, 2020, three of those customers have already been reconnected after making partial or full payment of the balance due. Because of its familiarity with its customers, IGC suspects that some of the remaining 17 disconnected customers may not actually want to be reconnected at this time because they do not rely on gas service for home heating. IGC April 10 Reply at 3. With the climate in IGC's service area and end of the heating season, IGC states that some customers do not want the monthly customer charge and are comfortable waiting until fall to pay the balance they owe and have service reconnected. While water and electric service can be considered essential throughout the year, IGC notes that some customers simply do not rely on gas service all year. Accordingly, IGC avers that mandatory reconnection may not be in the customer's interest. If a currently disconnected customer does request reconnection during the moratorium, IGC states that it will reconnect that customer and work with that customer to identify an amount they can pay. While IGC may not require a payment to reconnect such customers, because the disconnection occurred prior to the public health emergency declaration that is the focus of the Emergency Interim Order, IGC should not be prohibited from seeking some amount of payment if a previously disconnected customer seeks reconnection. Given the differences between utility service and customer interests, IGC urges the Commission not to require reconnection of all gas customers at this time and allow it to continue to work with previously disconnected customers to determine whether some amount of payment is possible.

8. Mt. Carmel's Position

MCPU does not support reconnecting customers who were already disconnected for nonpayment prior to the moratorium. First, no time period to reach back was proposed by the Intervenors. This proposal would be too encompassing if taken at face value of "all customers." Reconnections should include a payment of some sort for those who were disconnected prior to the moratorium. MCPU would work with any such customers to work out a fair and reasonable reconnection payment.

Historically at this time of the year, MCPU has gas customers who heat with gas in the winter and once the heating season is over, prefer to stay disconnected. This is an attempt for them not to pay the monthly customer charge required if they were still connected. The customer will then come in during the fall when the heating season begins to get reconnected. In order to reconnect a gas customer, utility personnel are required to go into the customer's structure to inspect. Utilities are attempting to reduce exposure both of its employees and customers from possible coronavirus. Therefore, entering customer's structures is being limited to emergencies, such as gas leaks, if possible. Connects and reconnects will be performed if the applicant or customer is in compliance with Part 280.

9. Consumers' Position

Consumers does not object to reconnecting customers and waiving reconnection fees until the Governor announces the end of the COVID-19 public health emergency. However, Consumers urges the reconnection be limited to those previously disconnected customers who request reconnection.

10. AG's Position

The AG argues for reconnection of any customer who was disconnected for non-payment either before, during, or after the emergency status ends. The AG's position is that no reconnection fees should be charged.

11. COFI's Position

The Responses filed by several utilities, in COFI's view, suggest that essential reconnections of previously disconnected customers have not occurred, as no mention was made of steps taken to reconnect customers who were previously disconnected due to inability to pay. While not ordered by the Commission, some utilities have set the precedent for doing just that, having recognized that no one should be forced to shelter in place in a home without essential utility service. ComEd, USI, and Illinois-American each stated that they are in the process of reconnecting previously disconnected customers who were disconnected for non-payment. ComEd states it is waiving reconnection fees, as well.

COFI applauds those efforts and urges the Commission to require *all* utility respondents in this proceeding to do the same by: 1) reconnecting customers who were previously disconnected due to inability to pay; 2) sending notices to customers that they should contact the utility for said reconnection; 3) proactively engaging the customer in the arrangement of an affordable DPA; and (4) waiving all reconnection fees.

Reconnection action is needed because access to essential service is vital to public health and safety at all times, but particularly during a global pandemic and the state's shelter-at-home directive, as the Commission recognized in its Emergency Order.

There simply is no excuse for the utilities and the Commission to permit individuals whose financial circumstances led to a utility disconnection prior to the COVID-19 emergency to remain in a residence without essential lights, heat, water and sewer services during a global pandemic. The Commission should immediately order all utilities to reconnect any customers who are currently disconnected from utility service due to

inability to pay, communicate that directive to customers, proactively arrange an affordable DPA and waive all reconnection fees.

12. Commission Analysis and Conclusion

See Section III.K. below.

C. DISCONNECTIONS (POST-PANDEMIC)

1. Staff's Position

Staff sees merit in extending the moratorium on disconnections of service for non-payment, and imposition of late payment fees, for 60 days beyond the date upon which the Governor announces the end of the COVID-19 public health emergency.

2. ComEd's Position

ComEd voluntarily announced a moratorium on disconnections for non-payment and a waiver of late payment fees that went into effect on March 16, 2020 through at least May 1, 2020. ComEd also committed to continuing the moratorium through the end of the public health emergency and it suspended disconnection notices and calls on March 16, 2020. ComEd March 27 Response at 2-5.

The AG asks the Commission to direct that: (1) at the end of the emergency, utilities give customers a 60 days payment "grace period" to set up a DPA with the utility; and (2) that the moratorium on non-payment disconnections be extended for those same 60 days. AG April 6 Response at 14-16, and AG Ex 4. Staff also urges utilities to extend the moratorium for 60 days past the end of the emergency. Staff April 10 Reply at 7.

In response to the AG's grace period recommendation, ComEd states that the utilities should not be ordered to suspend disconnections for non-payment *beyond* the end of the state of emergency in this compliance proceeding. ComEd April 10 Reply at 3. ComEd states that it retains the discretion to voluntarily extend the voluntary suspension of disconnections and disconnection notices for non-payment and new late payment fees that it announced on March 13, 2020. Also, COFI's April 10 Reply expresses a concern that the AG's 60-day grace period on disconnections might inhibit a customer's ability to obtain reconnection grants under the LIHEAP program. COFI April 10 Reply at 9.

City-CUB, in effect, is urging a non-payment disconnection moratorium that potentially could last for well over a year (including the original moratorium) depending on CUB's undefined standard for "exhausting" alternatives or the duration of the combination of two failed DPAs plus a grace period. ComEd does not agree with City-CUB's proposal. ComEd April 10 Reply at 14.

3. Ameren's Position

Ameren is opposed to the AG's recommendation because the proposed grace period will increase a customer's total outstanding balance and make repayment more difficult, which in turn may lead to a future disconnection for non-payment which will occur at a time after LIHEAP has closed for the season. AIC asserts that in its experience disconnection notices are a call to action for many customers. Ameren Illinois states that as witnessed during the winter moratorium, a significant amount of customers wait to pay,

wait to establish a DPA, or wait to seek assistance until the impending disconnection becomes a reality in April, therefore extending the grace period beyond the end of the LIHEAP season will serve to harm a large subset of customers. Instead, Ameren intends to vigorously promote customer payment options and available assistance options while assistance is still available and payment agreement terms are manageable.

Ameren Illinois argues the AG would also have utilities forego two months of cash flow. While utilities are in a unique position compared to other companies, they are not immune to financial stress. Ameren Illinois explains that utilities are a business; they have ongoing obligations. By recommending that utilities forego two months of payments, the AG may place some utilities at risk of not meeting their obligations, impacting their ability to operate safely and reliably.

While Ameren Illinois does not support Staff's recommendations, Ameren Illinois will not contest the issue in the interest of compromise and narrowing the contested issues in this docket. The Commission should recognize that in order to receive energy assistance, a customer must show a need for the assistance. Therefore, Ameren Illinois will issue disconnection notices in June so that customers have access to emergency funding through LIHEAP prior to the close of that season and ensure that customers receive the maximum benefits available.

4. Large Water Utilities' Position

The Large Water Utilities note that the Intervenors propose varying post-COVID-19 emergency state disconnection practices that they argue should be applicable to all utilities, regardless of each utility's service type, tariffed rates, terms, and conditions of service, regions served, billing and collection system, or customer base. The Large Water Utilities oppose imposition of statewide mandated credit and collection policies and procedures as contrary to the Commission's Emergency Interim Order, unworkable given the emergency situation, and underdeveloped in terms of cost impact, procedural propriety, and actual effectiveness. Nevertheless, the Large Water Utilities each explain that they have proposed flexible credit and collections practices, which will remain in place for six months after the emergency status ends, and will otherwise continue to work with their customers, to help customers remain connected to essential water and wastewater collection and treatment services.

5. Nicor's Position

Nicor Gas does not oppose maintaining the moratorium on disconnections for non-payment for a period of 60 days following the end of the emergency, for residential customers only.

6. NSG-PGL's Position

NSG-PGL disagree with Staff's reconnection proposal. NSG-PGL believe that this is an example of the type of "mission creep" that can occur when, though perhaps well intended, parties do not adhere closely to the original requirements of the Emergency Order. NSG-PGL emphasize that the Emergency Order is clear on its face that the disconnection/late payment fee moratorium shall apply only "until May 1, 2020 or until the Governor announces the end of the COVID-19 state of emergency, if the state of emergency continues past May 1, 2020." Emergency Interim Order at 7.

NSG-PGL note that the law Staff cites calls into question whether the Commission would have authority at this time, and whether due process requirements would be met, by extending the moratorium beyond the date contemplated by the Emergency Interim Order. In NSG-PGL's view, given Staff's recognition of those legal requirements, Staff's extension suggestion is problematic and on shaky legal footing.

Also, as a practical matter, NSG-PGL question the need to extend the moratorium, since the revised credit and collections practices that will be implemented and extend beyond the moratorium should alleviate the vast majority of concerns about disconnections and the impact of late payment fees.

7. IGC's Position

IGC regularly works with its customers to determine individually suited payment arrangements. Because IGC understands that it may take some time for customers impacted by COVID-19 to return to work and assess what their income will be, IGC does not object to providing a grace period during which such customers can set up a DPA. IGC cautions against a grace period longer than 60 days, as it would be more likely IGC's customers will find themselves in the winter heating season when gas bills naturally increase. In that situation, customers may have a more difficult time catching up on the balance owed.

IGC does not believe that sending a disconnection notice materially harms the customer. IGC April 10 Reply at 4. IGC understands that most low-income assistance agencies require at a minimum a disconnection notice or for the client to be disconnected from service before being able to obtain assistance under LIHEAP. Moreover, if the moratorium ends in the spring or summer, IGC points out that natural gas billing will be near the annual minimums, which will facilitate customers' ability to pay towards the higher balances remaining from the winter months. Accordingly, IGC asserts that a prohibition on the sending of disconnection notices to at least gas customers may not be in the customer's overall best interest. IGC recommends that the Commission not prohibit the sending of disconnection notices at the end of the public health emergency, or at a minimum, not prohibit gas utilities from sending such notices.

8. Mt. Carmel's Position

Mt. Carmel states that it will resume disconnects after the end of the moratorium period. This would be done after the customer has had the opportunity to address the situation, including a DPA, and fails to follow through on commitments. Further, each customer would be looked at independently to see what additional options could be offered to help them stay connected and lead to a successful outcome for both the customer and the utility. Allowing customers to get further into debt is not a good solution and leads to more uncollectable debt for the utility and ultimately for the other ratepayers.

9. Consumers' Position

Consumers' filing already provides a moratorium on disconnections for non-payment for a period of six months after the end of the state of emergency, which is a significant protection for its customers.

10. MidAmerican's Position

MidAmerican argues that it has complied with the Commission's Emergency Interim Order regarding the disconnection of customers. After the moratorium ends, MidAmerican states that it will provide additional protections to customers by extending the winter disconnection rules listed at Section 280.135(a) another six months. A customer will not be disconnected without the notice requirements being met. Additionally, customers will be offered the option of a DPA for past due amounts and budget billing for future bill amounts.

11. AG's Position

The AG argues for the continued moratorium on disconnections for at least a 60-day grace period after the emergency status ends. The AG maintains that customers facing disconnection for non-payment receive DPAs with no less than a 12-month default term, and for customers who self-certify to a financial hardship, an 18 to 24-month term. The AG maintains that disconnections can be avoided even where a customer defaults on a DPA, and that utilities be directed to enable customers to reinstate or renegotiate their DPAs throughout the DPA term.

12. City-CUB's Position

City-CUB contend that this directive should stay in place for at least 6 months following the expiration of the state of emergency, as the number of customers eligible for disconnection is likely to rise, especially for those customers that either do not avail themselves or are unaware of the revised DPA accommodations. City-CUB assert it is entirely foreseeable that the many customers who have lost employment income (or revenue in the case of small businesses) during the emergency will have larger than usual utility bills due. First, City-CUB note that disconnection notices must not be sent until the utility and consumer have exhausted all alternatives, including DPAs. Where there is a DPA in place, City-CUB maintain that no notices should be issued until the DPA has failed – a status that would be declared only after unsuccessful follow-up efforts to revise the DPAs. City-CUB request that a DPA failure that prompts a disconnection notice also include a grace period of 30 to 45 days, which should be a standard DPA implementation feature, providing a final opportunity for recovery from a sudden, unprecedented income disruption. City-CUB argue that extraordinary circumstances, unlike anything nearly any Illinoisan alive has ever experienced, call for extraordinary adjustments.

Disconnection notices, whether during the emergency or post-emergency period, must clearly and conspicuously include information and instructions for accessing available alternatives to the loss of essential services – including DPAs, budget billing, and government or utility assistance funds. City-CUB suggest that for combination utilities, gas and electric arrearages must be separately stated, since many customers may have to make difficult choices about the "more essential" utility service.

13. COFI's Position

COFI states that CUB and the AG's disconnection recommendations, though offered in a spirit of reducing the financial anxiety of low income and newly low-income customers throughout the state, may have unintended consequences.

Specifically, a customer's ability to obtain a reconnection assistance ("RA") grant through LIHEAP must not be compromised by a grace period or ban on disconnection notice directive. COFI's concern is that if the community action agencies throughout the state close their doors as of June 30, 2020, the currently scheduled closure date, customers will be unable to obtain these significant assistance grants once the grace period is lifted.

In addition, current LIHEAP rules call for notification from the utility that a customer is under threat of disconnection in order to obtain the RA grants. Any grace period approved must be coordinated with DCEO and the utilities so that financially troubled customers can still obtain the significant reconnection assistance grants needed to significantly reduce their outstanding arrearages during any grace period ordered. Utilities should be directed to work with DCEO to ensure that such an arrangement can occur if the AG or CUB disconnection notice/grace period proposals are implemented.

14. Commission Analysis and Conclusion

See Section III.K. below.

D. DEPOSITS

1. Staff's Position

Staff sees merit in waiving deposit requirements associated with late or non-payments, arrearages, or credit related issues for residential customers. In Staff's view, such deposits should be waived for six months from when the Governor announces the end of the COVID-19 public health emergency.

2. ComEd's Position

ComEd notes that: (1) with respect to those residential customers who pay deposits, ComEd is allowing them during the moratorium and for six months thereafter to pay the deposit in five installments (normally three installments are required in the non-winter period and five in the winter period); (2) through at least May 1, 2020, for new residential and small business customers (up to 400 kW), ComEd will waive deposits; (3) through at least May 1, 2020 for residential and small business customers seeking reconnection, ComEd will perform additional review to determine if a deposit can be waived; (4) through at least May 1, 2020 current residential and small business customers, who have an existing deposit, will be given additional review to determine whether the existing deposit may be applied to an outstanding balance; and (5) through at least May 1, 2020 ComEd is suspending new financial insecurity deposits from C&I customers. ComEd March 27 Response at 5, 7-8.

Deposits are security that make it possible for ComEd to prudently and reasonably extend service in applicable situations. ComEd believes that the steps it already has taken regarding deposits strike the right balance that the Commission is seeking in this proceeding between providing security and providing significant benefits to customers in need. ComEd April 10 Reply at 19.

3. Ameren's Position

Ameren Illinois explains that the AG's and COFI's recommendation that deposits be used to pay arrearages conflicts with Part 280.40(h) which requires a utility to release

the deposits only after the customer meets certain payment requirements. Ameren Illinois, however, allows a customer to pay their deposit in installments. Part 280 already allows the flexibility so that Ameren Illinois may allow a customer to include any unpaid deposit installments in a DPA. Ameren Illinois explains that as the Company's standard practice, Ameren Illinois already provides its customers with the flexibility to pay deposits while continuing to use the deposit as a tool to protect against potential uncollectibles. Ameren Illinois states that it is not only possible but necessary to balance the financial stability of the Company with the customer's need to have more flexible payment options.

Ameren Illinois indicates that the Commission's rules provide for utilities to charge deposits to customers. Ameren Illinois explains the intent of customer deposits is to allow the utility "to secure against potential unpaid debts. Utility collection activities, when not otherwise restricted by regulations or laws, will limit the accumulation of unpaid debt so that deposits will continue to serve this protective purpose." 83 Ill. Adm. Code 280.40(a). Ameren Illinois further explains that not only do the Intervenors' recommendations undermine the Commission's rules, but waiving a deposit affects the Company's obligation to pursue the collection of uncollectibles and violates Section 16-111.8(c) and 19-145(c) of the Public Utilities Act ("Act").

Ameren Illinois states that Staff's recommendation is in violation of Section 16-111.8(c) and 19-145(c) of the Act. Ameren Illinois understands that a deposit could be a burden on customers at this time and supports Staff's recommendation to waive certain deposits for six months, specifically deposits due to late payments, due to low credit score at connection and due to customer's previous bill owing.

4. Large Water Utilities' Position

The Large Water Utilities explain that they currently do not assess deposits for new or reconnected service (although under Part 280 they may, *see* 83 Ill. Adm. Code 280.20, 280.45) and do not intend to assess deposits for at least six months after the end of the emergency state.

5. Nicor Gas' Position

Nicor Gas plans to extend the winter deposit rules provided for in 83 Ill. Adm. Code 280.135(e). Nicor Gas does not oppose suspending new deposits for a period of six months following the end of the emergency. Nicor Gas April 10 Reply at 8. Nicor Gas opposes the remainder of the Intervenors' proposals related to deposits. *Id*. at 7.

6. NSG-PGL's Position

NSG-PGL commit to refrain from assessing deposits from any customers (including low income residential, non-low income residential, and commercial/industrial customers). NSG-PGL agree with Staff's position relating to residential customers, except that NSG-PGL commit to go above-and-beyond Staff's proposal to refrain from assessing deposits from commercial/industrial customers as well.

7. IGC's Position

It is not clear to IGC how long City-CUB and the AG argue deposit waivers should continue. IGC's tariff provides, but does not require, that IGC may collect a deposit to secure an account. IGC is currently only holding 14 customer deposits, mostly for small

commercial customers. Generally, it is not IGC's practice to collect deposits, particularly from customers already experiencing financial hardships. With regard to applying the 14 deposits it is holding to those customer's respective account balances, IGC would be willing to apply those deposits to the customer's balances if so directed by the Commission. IGC April 10 Reply at 6.

8. Mt. Carmel's Position

Mt. Carmel is not in favor of waiving deposits. In some circumstances, some assurance is needed to show good faith that the customer is willing to work with the utilities to attempt payment. Mt. Carmel will extend the winter deposit rules to not require a down payment for a deposit in excess of 20 percent of the total deposit requested. An additional four months shall be allowed to pay the remainder of the deposit.

Mt. Carmel believes that this gives the customers in need the ability to be part of the solution. MT, Carmel does recognize that some customers may not be able to pay any amount of deposit. Low-income customers are afforded protection from deposits in Part 280.45. For other customers, deposits are discretionary. In those situations, MT. Carmel has the flexibility to determine if the circumstances warrant that no deposit would be required. It is imperative for small utilities to be able to have the latitude and ability to manage its financial needs as well as assist the customers' needs as well.

Likewise, a rule requiring the deposits to be applied to outstanding bills is not prudent. There are reasons why a deposit was required and there is no need to undo the protections as set forth in Part 280.40(a). 83 Ill. Am. Code 280.40(a)

9. Consumers' Position

Consumers is agreeable to waiving deposits for the six-month period described by Staff. It is generally not the practice of Consumers to require customer deposits.

10. MidAmerican's Position

MidAmerican states that for six months after disconnection moratorium ends, it will waive the collection of deposits from new residential customers and master-metered apartment buildings solely for failing MidAmerican's credit requirements and for existing residential customers who have a slow payment history. With respect to non-residential customers, MidAmerican will waive its right to collect deposits from existing customers with slow payment history. MidAmerican requests the Commission reject the AG's and COFI's deposits proposals.

MidAmerican states that it collects deposits from very few customers, and when it does, those deposits are returned within a year. Furthermore, MidAmerican claims its deposits are used consistent with the policy of Part 280.40 - to secure MidAmerican against potential unpaid debts and minimize the impact of uncollectible expense which may be recovered from all customers in future rate proceedings. To minimize that risk, MidAmerican requests that the Commission allow utilities to retain existing deposits for their intended purpose.

11. AG's Position

The AG argues for a waiver of all deposits for both new and late paying customers. As the unprecedented economic fallout from COVID-19 continues, the AG maintains that

it would be unreasonable for utilities to impose and require deposits from their new or current customers, and that allowing deposits would be inconsistent with the Commission's expressed directive that utilities "ensure customers remain connected to essential utility services when the emergency status ends." Emergency Interim Order at 6.

The AG notes that multiple utilities acknowledged the difficult financial hardship that requiring deposits would represent to both their existing customers and new customers. However, the utilities offered various different approaches on how to handle deposits. The AG maintains that a consistent policy of waiving deposits is necessary to ensure our recovery from the pandemic does not place customers likely to reach fiscal stability again at needless and immediate risk of disconnection, which the AG contends would be contrary to the Emergency Interim Order.

The AG further argues for a waiver of deposits in connection with a customer's late or non-payment, arrearage, credit score, or credit references. The AG argues that to the extent a customer has already paid a deposit, the Commission should order that those customers be permitted to apply those deposits as payments against arrearages.

12. City-CUB's Position

City-CUB assert that the Commission should order all utilities to adopt the NSG-PGL modification, noting that removing the deposit hurdle will help consumers and businesses resume their economic lives more quickly, which benefits utilities as much as it benefits those utilities serve.

13. COFI's Position

The utility responses related to the demand for customer deposits for residential customers varied, and in most cases fall short of what is needed to protect energy and water affordability. ComEd's proposal, for example, suggests much discretion will be left to customer service representatives ("CSRs"), with no details supplied as to what will convince the CSR to waive the deposit.

No utility asserts that it will continue the current moratorium on late fees and penalties ordered by the Commission in its Emergency Order. Therefore, most of the utilities fall short in comprehending the inability of customers who have lost jobs to pay a deposit on top of arrearages and current bills, or late fees and penalties when the moratorium order is lifted. The financial fallout of the coronavirus pandemic will leave customers seeking more flexible payment provisions with little to no discretionary income. Demanding an expensive deposit and late fees/penalties on top of payment of current bills and arrearages is both unnecessary and punitive. COFI urges the Commission to (1) adopt the NS/PGL proposal of waiving deposits and order all utilities to follow that rule throughout the post-moratorium period; and (2) order all utilities to continue the moratorium on late fees and penalties throughout the six-month period. Any existing customer deposits should be applied to any outstanding arrearage.

14. Cherry's Position

Mr. Cherry states that the utilities proposals to reduce deposit and down payment requirements are not sufficient. There should be no deposits or down payments for those seeking to participate in the utility programs arising from this docket.

15. Commission Analysis and Conclusion

See Section III.K. below.

E. FEES

1. Staff's Position

Staff states the Commission should recommend (but not order) utilities to waive reconnection fees. Staff April 10 Reply at 8.

2. ComEd's Position

As discussed above, ComEd has recently taken steps to waive reconnection fees and DPA reinstatement fees during the moratorium period by filing its *Special Permission Fee Waiver Petition* which sets reconnection fees and DPA reinstatement fees to $0 for the moratorium period.

ComEd states that the AG does not make a good case for waiving returned check fees. ComEd April 10 Reply at 16. ComEd will continue to assess fees and penalties that are unrelated to non-payment, such as fees for meter tampering and bounced checks. *See, e.g.*, ILL. C. C. No. 10, 12th Revised Sheet No. 205 (Invalid Payment Fee).

Neither the AG nor COFI makes a good case for why late fees should continue to be waived after the moratorium ends. ComEd April 10 Reply at 16. At that point, the new more flexible credit and collections policies already will have "kicked in." In addition, Part 280 already prohibits the imposition of late payment fees on low income customers. *See* 83 Ill. Adm. Code 280.65. ComEd states that it retains the discretion to voluntarily extend the voluntary suspension of new late fees resulting from non-payment which ComEd stated would last at least until May 1, 2020.

Finally, with respect to Staff's alternative proposal, ComEd already has waived the related reconnection fees during the moratorium period. ComEd March 27 Response at 7; ComEd April 10 Reply at 15-16.

3. Ameren's Position

Ameren Illinois notes that the Intervenors all recommend that the Commission order utilities to continue to waive late payment charges. Ameren Illinois states it is not indifferent to difficulties its customers are currently facing and will face in the future. In light of Staff 's position, Ameren Illinois agrees to waive the following fees until the end of the state of emergency: reconnection fees and returned check fees. Additionally, Ameren Illinois will waive late payment charges until 60 days after the end of the state of emergency.

4. Large Water Utilities' Position

The Large Water Utilities oppose imposition of statewide mandated credit and collection policies and procedures related to fees as contrary to the Commission's Emergency Interim Order, unworkable given the emergency situation, and underdeveloped in terms of cost impact, procedural propriety, and actual effectiveness.

5. Nicor Gas' Position

Nicor Gas states that its initial filing demonstrated that it has suspended utility late payment fees from March 18, 2020, through and including May 1, 2020, or until the Governor of Illinois announces the end of the COVID-19 state of emergency. Nicor Gas March 27 Resp. at 2. Nicor Gas opposes all the Intervenors' proposals related to fees.

6. NSG-PGL's Position

NSG-PGL will continue to seek collection of reconnection fees and fees related to checks received for insufficient funds.

7. IGC's Position

IGC's tariff provides for a $30 reconnection fee, $30 field payment charge, and $15 returned check fee. IGC is not currently collecting the reconnection fee or field payment charge and does not object to continuing this practice after the end of the public health emergency. IGC objects to waiving the $15 returned check fee because it is essentially a pass through of the cost IGC's bank imposes on IGC when it attempts in good faith to deposit a "bad check." IGC April 10 Reply at 6.

8. Mt. Carmel's Position

Mt. Carmel will waive reconnection fees; Mt. Carmel already does not charge a DPA reinstatement fee; MCPU does not currently obtain slow payment deposits; Mt. Carmel will waive any Non-Sufficient Fund ("NSF") fees. NSF fees cause a direct cost to the utility imposed by banks, and these will be part of the cost recovery.

Mt. Carmel does not believe that waiver of late payment fees beyond the moratorium should be ordered. Customers should not be incented to pay their utilities last or not at all or to avoid fiscal responsibility. Further, the credit and collection plans will be in place after the moratorium period and provide the benefits which customers will need. Mt. Carmel still plans to comply with the waiver of the fees set forth above during the six months following the moratorium as set out in its plan. Mt. Carmel reserves the right to waive a late fee on a customer by customer basis if the circumstances warrant.

9. Consumers' Position

Consumers will not reinstate imposition of late payment fees and penalties for a period of six months after the end of the state of emergency.

10. MidAmerican's Position

MidAmerican states that it has ceased collecting late payments fees, which it has communicated to its customers. Furthermore, MidAmerican revised its electric and gas tariff sheets that adding a new "Emergency Relief" section to its customer policies. According to MidAmerican, the revised tariffs explicitly repeat the emergency protections included in the Emergency Interim Order and have an effective date of March 30, 2020.

11. AG's Position

The AG argues for a uniform waiver of late fees, reconnection fees, and/or other charges and penalties. Under these circumstances, the AG maintains it is more than reasonable for utilities to continue to waive late fees, reinstatement fees, and to the extent

that utilities have them, returned check fees and reconnection fees, for all customers who have amounts past due at the end of the COVID-19 emergency status. The AG argues that the Commission should require the utilities to continue to waive late fees and other fees through the entirety of the DPA periods mandated in this proceeding.

12. City-CUB's Position

City-CUB contend that the Commission must assure that the rights and obligations of customers (and utilities) associated with these aspects of service access, billing, and collection are responsive to the unique circumstances of this pandemic, consistent across utilities, and communicated clearly to affected consumers. City-CUB acknowledge that there may not be evidence to sustain a particular fee amount, duration or other parameters. However, City-CUB maintain that the Commission should nonetheless mandate consistent, clear relief that consumers can confidently expect to be available. City-CUB remind the parties that utilities have an assured opportunity to later recoup properly rate-recoverable costs, unlike many other entities and consumers affected by the pandemic.

13. Commission Analysis and Conclusion

See Section III.K. below.

F. SELF-CERTFICATION

1. Staff's Position

Staff observes that many utility customers have lost jobs unexpectedly and with little notice during this public health emergency. Additionally, Staff notes that it has been much more difficult during the public health emergency for customers to apply for mitigation programs or otherwise demonstrate financial hardship or need. Thus, in Staff's view, requiring customers to follow standard processes to demonstrate hardship, which typically includes proof of income or participation in a proxy program, is likely to prevent at least some, and possibly many, otherwise eligible customers from availing themselves of such assistance. Further, any harm in allowing ineligible customers to take advantage of temporary credit and collection procedures appears to Staff to be outweighed by the harm almost certain to result if customers eligible to utilize the temporary credit and collection procedures established here are denied access to them due to impediments to proving eligibility. For these reasons, Staff recommends that customers be permitted to self-certify their eligibility while the temporary collection procedures arising from this emergency proceeding remain in effect.

2. ComEd's Position

ComEd notes that, while it is somewhat ambiguous, it appears that the AG, City-CUB, and COFI are not seeking to expand the Commission's definition of "Low-Income Customer" under Section 280.20 of the Commission's Rules. To the extent the parties are seeking to expand the Commission's definition of low income, ComEd reiterates that this is not a rulemaking, and to the extent the Commission seeks to amend its rules, it should do so through a formal rulemaking proceeding. ComEd April 10 Reply at 25.

Currently, ComEd relies completely on the Local Administering Agencies ("LAAs") to identify "low income customers." ComEd appreciates that the parties'

recommendations regarding self-certification are motivated by their desire to remove perceived burdens for customers to provide documentation to certify as low income. At this time, however, ComEd believes that it is not necessary (or at least, it is premature) to require ComEd to depart from its current process of relying solely on LAAs to certify customers as low income. In addition, ComEd does not believe that self-certification standards are appropriately discussed in this proceeding. ComEd April 10 Reply at 26. Nonetheless, despite its opposition to a statewide self-certification mandate in this proceeding, ComEd is cognizant of the fluidity of the COVID-19 situation in Illinois. ComEd will continue to monitor the needs of its customers and their ability to access and provide documentation to support their applications for LIHEAP, PIPP and other assistance programs. If needed, ComEd will amend its policies and procedures (and, to the extent necessary, seek Commission and/or DCEO approval to do so) if it becomes impractical for its customers to comply with application requirements. ComEd April 10 Reply at 26-27.

ComEd has introduced temporary and more flexible deposit and DPA terms for customers with “financial hardship”. March 27 Response at 5-6. In this context, ComEd considers customers experiencing “financial hardship” as not limited to low-income customers. ComEd April 10 Reply at27. ComEd further revised its internal policies to no longer require customers to provide documentation demonstrative of financial hardships. Instead, customers are able to verbally articulate their financial hardship to CSRs when discussing customer assistance options – such as flexible payment options and deposit waiver considerations – and other program eligibility. ComEd April 10 Reply at 27.

3. Ameren’s Position

Ameren Illinois points out that the Intervenors recommend that beyond enrollment in either LIHEAP or PIPP, that the Commission allow the use of specific proxy programs for "low income" status. Ameren Illinois explains it understands the plight of its customers, however, the Intervenors are requesting to place an undue burden on utilities. Ameren Illinois agrees it may be burdensome on the LIHEAP agencies, but the request unreasonably shifts the responsibility and burden to administer certifications to the utilities. Ameren Illinois explains that it would be required to train current CSRs on new standards, and it may be necessary to hire and train new CSRs to handle the increase in volume. Ameren Illinois notes this would be a costly undertaking by the utilities, including Ameren Illinois, especially during a time in which the utilities might be experiencing a decrease in revenue and cash flow and increased calls from customers seeking information on payment assistance and arrangements.

Moreover, Ameren Illinois explains, the most important benefit being offered as a part of certification is utility bill payment assistance; something that only LIHEAP agencies can provide. Additionally, other protections provided to customers certified as low income, such as exemption of late payment fees, waiver of deposits, lowered DPA down payments and extended payment agreement terms are currently being offered to all of the utility's customers as a part of the response to the Commission's Emergency Interim Order.

4. Nicor Gas' Position

Nicor Gas states that it does not oppose further consideration of the Intervenors' recommendation to allow customers to self-certify their low-income status but cannot state whether such a proposal would be workable from either an administrative or validation standpoint. Nicor Gas April 10 Reply at 8.

5. Large Water Utilities' Position

The Large Water Utilities explain that because they do not work with LIHEAP administrators, they already work directly with customers to determine financial hardship status.

6. NSG-PGL's Position

NSG-PGL state Part 280.20 sets forth the definition of a low-income customer by reference to a finding of low-income status by the LIHEAP administrator. *See* 83 Ill. Adm. Code 280.20. Notwithstanding that clear standard, the Intervenors propose an expansive variety of methodologies under which a customer may "self-certify" that the customer is low income. NSG-PGL acknowledge that the process for determination of low-income status is important. However, the inconsistent and extensive proposals that the Intervenors offer strike NSG-PGL as unworkable as a practical matter, with a potential to create more bureaucracy while inviting abuse, which could saddle all customers with increased costs.

Upon further consideration of the pertinent facts and circumstances arising from the COVID-19 public health emergency, NSG-PGL agree to Staff's proposal, with some conditions. Staff should work cooperatively with the utilities to provide workable, practical guidance on implementing the temporary self-certification process, and the utilities should be entitled to exercise their reasonable discretion in implementing those guidelines.

NSG-PGL state that customer self-certification should not mean that a customer is automatically qualified as a low-income customer for purposes of all of the benefits accorded to low income customers under Part 280, but instead it should permit the customer to qualify for additional credit and collections practices being implemented in this emergency proceeding. The utilities should be entitled to recovery of costs and foregone revenues associated with customer self-certification, including, without limitation, recovery of costs or foregone revenues arising from customer inaccuracies, misconduct, or fraud ("Customer Issues") arising from or associated with the self-certification process. Neither the occurrence of Customer Issues nor the utilities' exercise of reasonable discretion relating to self-certification decisions should be held against the utilities in any future proceedings regarding credit and collections policies, uncollectibles, cost recovery, or rates.

7. IGC's Position

IGC wishes to note that although the Embarras River Basin Agency has closed its office due to the pandemic, IGC continues to work with that agency to assist customers in obtaining LIHEAP assistance. IGC typically accepts a customer's word that he or she is experiencing financial hardship or is low-income. IGC maintains that this is an example of its size allowing it to work with its customers on a personal level. IGC April 10 Reply at 6.

8. Mt. Carmel's Position

Mt. Carmel is opposed to self-certification. Maintaining the current LIHEAP low income certifications is appropriate. Even though the LAA's may not be open for customers to walk in, they have made arrangements for online, remote working and other methods to receive certification. To allow self-certification puts undue burden and shifts costs from the agencies to the utilities. Moreover, self-certification would allow for abuse by customers and would ultimately cost all ratepayers more money. Even for LIHEAP assistance, the LAA's require customers to provide documentation to prove low income eligibility. Mt. Carmel's systems are not designed for certifying low-income status and to do so would be too costly and would be burdensome to develop the proper process to properly screen. Self-certification is not a feasible idea especially when there are agencies already set up to do this screening process. Furthermore, money is being put into LIHEAP to assist in this pandemic such as with the recent enactment of federal legislation putting $1 billion into the program. Altering a process that works without evidence of a failed process or system is not prudent.

9. Consumers' Position

Consumers does not oppose the use of self-certification during the 60-day period in question but does question whether the 18 and 24-month repayment periods are too long to be effective. Based upon its size, Consumers has the ability to work with its customers on an individualized basis. As it always has, Consumers proposes to work with its customers who self-certify as suffering financial hardship but believes a blanket 18-24 month period for DPAs will serve only to further deepen the debt of customers during the non-heating season, when the bills to customers are generally much lower.

10. MidAmerican's Position

MidAmerican argues that the AG's, COFI's, and City-CUB's concerns regarding self-certification of low-income status are not an issue with respect to the Company's revised credit and collection policies. MidAmerican claims that its proposal for residential customers is built on the extension of the winter disconnection policies in Part 280.135(a). MidAmerican states that it is waiving deposits for customers, when only required by credit problems or slow payment. MidAmerican states that access to these more flexible policies is not dependent on a customer satisfying any definition of "low-income." Because these benefits are available to any customer requesting them, regardless of income status, MidAmerican argues that self-certification is not an issue.

11. AG's Position

The AG contends that as Illinois comes out of the COVID-19 crisis, payment accommodations available to low-income customers or applicants must be based on self-certification of hardship. The AG contends that both special accommodations for customers facing financial hardship and self-certification are consistent with Part 280. Part 280 includes specific "low income" rules applicable to customers who have been certified as eligible for LIHEAP by the appropriate county LIHEAP administering agency. 83 Ill. Adm. Code 280.20. The AG notes, however, that existing customer service rules are to "be viewed as the minimum standards …," and that utilities may "expand or supplement" the requirements of Part 280. 83 Ill. Adm. Code 280.5.

The AG maintains that requiring LIHEAP agency certification before a customer may qualify for low-income provisions of the temporary credit and collection procedures during recovery would be overly burdensome on the LIHEAP agencies, and would likely create an insurmountable obstacle for customers facing financial hardship. The AG notes that utilities may expand upon the minimum requirements of Part 280, which includes the standards by which a customer is determined to be low income. The utilities can thus use self-certification to establish financial hardship. The AG contends it would be socially irresponsible and overly burdensome – not to mention probably logistically impractical – for this post-pandemic recovery plan to require that LIHEAP agencies stand as the gatekeepers between the utilities and their customers, many of whom are facing reduced or no income, and suffering from the duress of financial hardship.

The AG provided a sample self-certification form modeled on the form developed by the Illinois Supreme Court for use by circuit courts in determining fee waivers. *See* AG April 6 Response at Ex. 3. The AG's proposed form would enable customers to demonstrate financial hardship for purposes of credit and collections accommodation by reference to unemployment, reduced income due to the pandemic emergency, or receipt of certain state and/or federal assistance.

12. City-CUB's Position

City-CUB argue that limited consumer access to employers, assistance agencies, and doctors requires meaningful accommodations regarding the requirements for proof of consumer low-income status. Moreover, City-CUB observe that utilities' planned documentation (or alternative procedure) requirements for access to low-income, medical, or hardship accommodations, during and after the pandemic emergency, are not consistent across utilities. City-CUB conclude that the standards of acceptable documentation should be uniform and should recognize (and accommodate) the barriers created by the current pandemic.

According to City-CUB, using practically unobtainable LIHEAP, medical, or workplace documents/certifications as pre-conditions to assistance programs or special Part 280 accommodations would defeat the purposes of existing low-income and hardship programs, as well as the Commission's objective in ordering emergency accommodations that respond to pandemic conditions.

City-CUB anticipate that many consumers who previously did not meet low-income criteria, before pandemic-caused unemployment or other economic disruptions, will now face severe financial difficulties. Appropriately, City-CUB state, such consumers will seek hardship or other accommodations from their serving utilities. Lacking documents from prior contact with energy assistance agencies, City-CUB contend, these consumers will face possibly additional daunting difficulties when trying to prove low-income or hardship status. City-CUB conclude that the Commission must align the utilities' financial certification requirements with current reality.

To City-CUB, the utility-focused LIHEAP program warranted special mention. They note that Illinois' LIHEAP application processes are at a virtual standstill, and funding is chronically below need. They anticipate that LIHEAP needs are certain to increase under the current conditions, even with additional funding through the recently enacted federal CARES Act. City-CUB argue that the program's reduced or uncertain

staffing, limited permissible public contact, and increased consumer demand will exacerbate already large backlogs in processing energy assistance applications at governmental and non-governmental low-income agencies. City-CUB also note that the struggle to handle pandemic-generated loads on the state's various online intake sites (since many offices are closed to the public) are the subject of daily news stories.

City-CUB remark that despite the readily apparent need for such information, it appears that only ComEd clearly delineates its threshold documentation requirements for access to special status accommodations and more flexible payment, deposit and DPA terms. City-CUB comment on ComEd's proposals as illustrative of the documentation problems consumers can expect.

City-CUB allege that many of the written materials ComEd plans to require may be very difficult to acquire under pandemic conditions – while consumers are under stay-at-home directives and employers, assistance agencies, and medical contacts are either not operating or unreachable. For example, City-CUB note that to access hardship accommodations, ComEd plans to require that consumers produce "an application for unemployment benefits, pay stubs showing a change in pay, or an employment termination notice." ComEd March 27 Response at 5. City-CUB are concerned that overburdened government assistance offices and sudden business closures without written notices to workers may prove to be formidable barriers. Even when utility accommodations are planned, City-CUB note, the substitute documentation (or alternative procedure) required for access to special accommodations is not consistent across utilities. City-CUB insist that it should be.

City-CUB argue that special challenges of obtaining relevant documentation call for lowering and for standardizing documentation requirements. City-CUB acknowledge that ComEd moves toward this approach for some (though not all) of its accommodations. For new service connections, when ComEd and its credit check agency are unable to validate the applicant's identity, the utility commits that they "will work with the customer over the phone to try to verify the customer's identity." ComEd March 27 Response at 6-7.

City-CUB assert that ComEd's attempt to identify substitutes for letters from physicians, to access its Hospital-Based Energy Assistance for Long-Term Health Program, illustrates the difficulty in finding alternatives that are practical for consumers. The defined alternative (letters from a registered nurse or a social worker) may also require prohibited travel or contact with overwhelmed medical professionals. With respect to employment/income hardships, City-CUB remark that the pandemic has caused employees to be dismissed suddenly, without written notices of termination or business closure. Overburdened or closed business and governmental offices/systems present a practical inability to obtain proof of income or financial hardship while those conditions persist. City-CUB comment that existing rules require utilities to accept an initial phone call which has to be followed up by a letter. City-CUB propose that during this crisis, the Commission should direct utilities to accept alternative documentation or consumer attestation, in lieu of a letter from medical personnel engaged in fighting a pandemic.

13. COFI's Position

Post shut-off moratorium, there will likely be thousands of low-income customers and newly unemployed customers seeking energy assistance statewide. Given the shut-down of community action agencies like Community and Economic Development Association ("CEDA") the ability to quickly access critical energy assistance funding will likely be compromised. In addition, the state agency that oversees LIHEAP distribution, the DCEO Office of Community Assistance recently informed the Low Income Energy Assistance Policy Advisory Council members that the Illinois Comptroller's Office borrowed on March 25, 2020, some $70 million in LIHEAP State Supplemental Funds. *See* OCA Notice, attached as Appendix B. It is COFI's understanding that the state has no obligation to restore the borrowed funds from that funding source.

Given these developments, relying on a customer's ability to access LIHEAP or PIPP as a way to designate eligibility for enhanced C&C protections offered to low-income customers is short-sighted. Instead, utilities should be ordered to expand low-income status by permitting customers to self-certify as low-income through any means-tested program enrollment or attestation of job or wage loss. Beyond enrollment in either LIHEAP or PIPP, the income supplement or energy assistance programs that would otherwise qualify a utility customer for LIHEAP status should be accepted as proxy programs for "low-income" status here.

These programs include customer enrollment in: (1) public or assisted housing; (2) Supplemental Security Income ("SSI"); (3) Supplemental Nutrition Assistance Program ("SNAP") (formerly Food Stamps); (4) Temporary Assistance for Needy Families ("TANF"); (5) Telephone Lifeline; (6) Pharmaceutical Assistance for the Aged and Disabled ("PAAD"); (7) Women, Infants and Children ("WIC") Special Supplemental Nutrition program; (8) Medicaid; (9) free or reduced school lunch/school breakfast; (10) Head Start; (11) Dependency and Indemnity Compensation ("DIC") for Surviving Spouse or Parents of Veterans; or (12) other programs as may from time to require income qualification. COFI argues that proof of enrollment in any of these programs should qualify a customer for special low-income protections.

14. Cherry's Position

Mr. Cherry states that due to the COVID-19 crisis, the current definition of low income is inadequate. At one time, the "low-income" protections of certain Part 280 provisions were given to those "LIHEAP eligible." The utilities were able to operate under that definition. The protections given to the low-income population were increased in the recent Part 280 proceeding. In recognition of the potential burden on utility companies, those protections were given to those "LIHEAP certified." That made sense then but does not make sense now.

Utilities should accept as proof of low income status (1) statement of $0 income; (2) participation in any other needs-based proxy program where the financial resources of the household have been examined such as SNAP, Childcare assistance, telephone lifeline, housing assistance, Medicaid, SSI (3) other clear indications that the household is now low income. Mr. Cherry supports COFI's proposal.

15. Commission Analysis and Conclusion

See Section III.K. below.

G. DEFERRED PAYMENT ARRANGEMENTS

1. Staff's Position

Staff sees merit in allowing residential customers to enroll in or renegotiate DPAs for 60 days beyond the date upon which the Governor announces the end of the COVID-19 public health emergency, whichever is later. In Staff's view, if adopted, such arrangements should provide for payment of arrearages over 18 months for all residential customers and over 24 months for customers that are income qualified based on a self-certification of eligibility and should not require down payments. In addition, Staff sees merit in allowing commercial and industrial customers to enroll in or renegotiate DPAs for 60 days beyond the date upon which the Governor declares the end of the COVID-19 emergency. In Staff's view, if adopted, such arrangement should provide for payment of arrearages as long as three months with no deposit, up to six months with a 10% deposit, and up to nine months with a 20% deposit

2. ComEd's Position

ComEd is reducing DPA down payments for DPAs enacted on or after April 1, 2020 from the normal 25% (for non-low-income customers) or 20% (for low-income customers) to 10% for residential customers upon expressed financial hardship (normally offered only during the winter). ComEd March 27 Response at 7-8.

Again, ComEd believes that the step it already has taken on this subject provides significant benefits to customers, and that ComEd should not be ordered to go farther on this subject in this proceeding. ComEd April 10 Reply at 19-20. Down payments are security that make it possible for ComEd to prudently and reasonably extend service in the applicable situations. Also, the DPA down payments are designed to assist the customer through an initial reduction of the balance, which then reduces the monthly installment amounts owed by the customer.

a. DPA Durations and Other Terms

During the moratorium and for six months thereafter, ComEd is extending the maximum length of a DPA to 24 months, and customers who already have DPAs are eligible to renegotiate for an extended duration. ComEd March 27 Response at 6. The Intervenors offer a variety of proposals, on what seems to be an *ad hoc* basis. The fact that the Intervenors present inconsistent proposals is, itself, evidence that the argument for establishing uniform standards in this situation is not workable. ComEd April 10 Reply at 20.

Much of the Intervenor discussion of DPA durations is not really "aimed at" ComEd, so to speak, because ComEd has made customers eligible for DPAs of up to 24 months. Moreover, ComEd is highly engaged with customers. In addition, in ComEd's April 8 *Special Permission Fee Waiver Petition*, ComEd seeks Commission approval to modify its tariffs to reduce its DPA reinstatement fee to $0 during the moratorium period.

With respect to the AG's 60 days' proposal, ComEd notes that there is currently no restriction on when customers may establish a DPA. ComEd April 10 Reply at 21.

With respect to the scenario of customers defaulting on a DPA, ComEd explains that customers who default on a DPA already have two options. ComEd April 10 Reply at 21. First, customers may reinstate the DPA. Under Part 280, reinstatement fees are already waived for low-income customers. See 83 Ill. Adm. Code 280.125(d). For customers who are not low-income, ComEd's April 8 *Special Permission Fee Waiver Petition* is pending. Second, customers may renegotiate the DPA. ComEd is voluntarily extending the maximum length of DPAs offered to eligible customers from 12 months to 24 months during the moratorium period and for six months thereafter. Customers who have previously commenced DPAs may be able to renegotiate for these extended terms. *See* ComEd March 27 Response at 6.

With respect to City-CUB's proposal for no interest or carrying charges in DPAs, ComEd already does not charge interest or carrying charges for DPAs. ComEd April 10 Reply at 22. Finally, with respect to COFI's proposal to allow customers to combine DPAs with 12 months of budget billing, ComEd already allows customers to combine DPAs with budget billing. ComEd April 10 Reply at 22.

b. Customer Service Representative Discretion

Some of ComEd's proposals require the exercise of discretion by CSRs or other ComEd personnel. That is inherent in the nature of applying standards where the facts – or the documentation of the facts – need to be considered in order to form a conclusion about whether or how a policy applies to an individual customer. ComEd April 10 Reply at 22. Despite the AG's and COFI's concerns, ComEd believes that it has expressed clear new policies and has explained that it has trained its CSRs on the new policies. CSRs know that they can request assistance from other ComEd personnel, if needed, to address unusual circumstances. ComEd does not believe that the AG or COFI has shown any factual basis for concern on this subject, much less that the asserted concern is a basis for changing any policy from what ComEd proposed. ComEd April 10 Reply at 22.

3. Ameren's Position

a. DPA Terms

Ameren Illinois proposes to offer to extend DPAs for 18 months for non-low-income customers and 24 months for low-income customers. Ameren Illinois explains that while the Intervenors' proposals may vary, they are similar to the Ameren Illinois' proposal. Ameren Illinois also notes that Staff recommends the Commission require utilities to offer DPAs for 18 and 24 months for all customer and low-income customers, respectively. Ameren Illinois believes that it understands the needs of its customers; therefore, the Commission should permit Ameren Illinois to implement its proposed DPA terms.

b. DPA Down Payments

Ameren Illinois indicates that it plans to reduce its residential DPA down payments to 10% for six months after the moratorium, and 10% is what the Company currently is requesting during the winter moratorium and continues to request during the emergency period. Ameren Illinois states that the Intervenors each propose that the utilities should waive DPA down payments, however, the length of that waiver varies.

Ameren Illinois believes its recommendation is reasonable and that if the Company were to waive DPA down payments, it would further increase a customer's overall debt

load and lead to potential default of the DPA. Additionally, Ameren Illinois notes that it opposes Staff's recommendation; however, in the interest of compromise and resolving contested issues, Ameren Illinois supports Staff's recommendation in part and provides specific modifications. Ameren Illinois opposes DPAs for industrial customers because they are most likely considered essential and their operations may not have been impacted. Ameren Illinois further explains that industrial customers should have contingency plans to keep their operations running during emergencies and have access to adequate external financing to keep them afloat. Ameren Illinois supports offering DPAs to small commercial customers by rate class – DS2 and DS3, GDS2 and GDS3 – in an effort to provide relief during this crisis. Ameren Illinois opposes the zero down payment offering; however, it can support a plan with a 25% down payment and 9 months to pay.

c. Other Terms

Ameren notes that the Intervenors assert that customers are facing future financial difficulties and to avoid the stress associated with the threat of an actual disconnection in the event of changed circumstances and encourage continuous payments, even at a reduced rate, the Commission should recommend their proposals. Ameren Illinois counters that while these are extraordinary times, this is not a rulemaking and the existing Part 280 rules already allow the flexibility for a customer to reinstate a DPA as many times as necessary during the term of that agreement and to renegotiate during the term of the DPA. Ameren Illinois states the AG, COFI, and City-CUB are suggesting vague and broad DPA terms that are administratively burdensome because the approach offers a perpetual DPA payment plan when the goal of a DPA is to bring a customer current on their bill. 83 Ill. Adm. Code 280.120(a). When coupled with the suggestion that the utility should forego a down payment, the Intervenors' recommendations effectively allow a customer to enter into a perpetual DPA, resulting in no real expectation of payment which negatively affects the Company's ability to pursue collection of and reduce uncollectibles. The current Part 280 rules already offer the flexibility so that Ameren Illinois and the other utilities can provide amended, renegotiated and reinstated DPAs, even in the event of a customer default on the DPA.

Part 280.120(a) states that payment agreements shall be "structured and administered to maximize the successful retirement of past due utility service amounts owing to the utility while allowing the customer to retain active utility service." The intent of the rule is to set customers up to succeed in paying off the debt. Allowing customers to establish the terms of their DPAs and allowing them to enter into successive DPAs with no expectation of payment, regardless of their performance on past agreements is inconsistent with both Part 280.120 (a) and Part 280.120(b)(1). The Intervenors' recommendation undermines the goals of the Commission's Part 280 rules.

Ameren Illinois notes that the AG's recommendation for a 60-day grace period is applicable to more than just DPAs, but the AG points to its need to assist customers in arranging DPAs. Ameren Illinois explains that the AG's proposed 60-day grace period goes beyond what Staff is now recommending. The AG's recommendation would permit customers to not pay their utility bills for almost two full billing cycles. Ameren Illinois believes that while it would help ease a customer's initial cash burden, it would lead to increasing a customer's total outstanding balance and make repayment more difficult.

Ameren Illinois asserts that it is not opposed to communicating its flexible credit and collection procedures with its customers. Ameren Illinois asserts that since the start of the COVID-19 pandemic, it has been reaching out to customers to keep the lines of communication open.

Ameren Illinois has been constantly updating its website to more clearly explain options available to customers. Ameren Illinois explains that it plans to send separate letters to customers that have fallen behind on their bills to explain programs that may help lessen the financial burden. Ameren Illinois further explains that it will be placing new messages on the bill to encourage customers needing help to contact Ameren Illinois. Ameren Illinois indicates that it is developing an email and a corresponding in-bill communication for all customers that will provide details as to ways it can help.

4. Large Water Utilities' Position

The Large Water Utilities note that each has proposed more flexible, extended DPA practices and have otherwise committed to continue to work with their customers, to help customers remain connected to essential water and wastewater collection and treatment services.

5. Nicor Gas' Position

Nicor Gas states that its plan includes the extension of winter DPAs provided for in 83 Ill. Adm. Code 280.135(a)(1)(A). Nicor Gas March 27 Resp. at 4. In addition, while Nicor Gas' plan already included extension of DPA terms for low income customers that have been certified for energy assistance for periods of up to 18 months, Nicor Gas does not oppose offering low income DPAs for a length of up to 24 months. Nicor Gas April 4 Resp. at 4; Nicor Gas April 10 Reply at 8.

Nicor Gas also does not oppose the following Intervenor proposals related to DPAs: offering residential DPAs for a length of up to 12 months; suspending down payments on DPAs; and revisiting the terms of existing DPAs that predated the emergency. Nicor Gas April 10 Reply at 7-8. Nicor Gas would expect such procedures to remain in place for a period of only six months after the end of the public health emergency. *Id.* Nicor Gas opposes the remainder of the Intervenors' proposals related to DPAs. *Id.* at 7.

6. NSG-PGL's Position

Under NSG-PGL's proposal, customers in all customer classes could benefit from reduced percentage of payment amounts, extended length of DPA terms, and non-assessment of customer deposits. NSG-PGL have determined that Staff's proposal is acceptable, with the condition that implementation of the Staff DPA proposal would allow utilities to recover all costs and foregone revenues associated with that DPA framework, subject to a prudency review.

7. IGC's Position

Upon considering the DPA-related proposals, IGC notes that there does not appear to be any distinction between those customers facing financial hardship due to the pandemic, and those who fell behind in payments prior to the pandemic. While IGC appreciates and shares the concern for all customers experiencing financial hardship

regardless of the reason, IGC understands the focus of this docket to be on financial strain associated with the public health emergency. Respectfully, in light of the more personal service that IGC is able to provide due to its size, IGC submits that the topic of DPAs is an area where differentiation between small and large utilities is appropriate. Similarly, IGC is better able to evaluate and determine which of its customers have been impacted by COVID-19, which renders blanket DPA requirements unnecessary. IGC April 10 Reply at 9.

IGC must also point out that longer payment periods impose a greater burden on smaller utilities to carry the cost of unpaid bills - an impact that is not as great on larger companies. *Id.* If the Commission is inclined to adopt some or all of the DPA proposals, IGC urges the Commission to limit doing so to utilities with more than 10,000 customers. Utilities with fewer than 10,000 customers should be able to work with their customers to address those customers' needs and distinguish those experiencing financial hardship due to the public health emergency. If unanticipated problems become apparent through the reporting requirements required under this docket, the Commission can revisit the applicability of more prescriptive DPA requirements on smaller utilities. IGC Reply at 10.

8. Mt. Carmel's Position

Mt. Carmel proposes to extend the winter DPA terms beyond March 31, 2020, for a period of not less than four months, but not to extend beyond the following November, along with the option to enter into a budget payment plan. Any down payment would not exceed ten percent of the amount past due and owing at the time of the agreement. 83 Ill Adm. Code 280.135(a)(1)(A).

The positions presented by the Intervenors on DPAs are inconsistent. Mt. Carmel believes that the extended times for DPAs that the Intervenors suggest are not reasonable. Allowing longer times for customers to pay not only puts the utilities in financial hardship but creates more debt for the customer making it difficult for them to ever pay all of the debt. The carrying costs of a long term DPA should not fall upon the utility. This is yet another reason that small utilities serving under 10,000 customers should be exempt from a uniform plan if one is ordered by the Commission.

9. Consumers' Position

Consumers is willing to implement DPAs under Section 280.120(b)(2)(C) which states: "At the utility's discretion, a residential customer owing a past due amount for service, but who is not automatically eligible for a DPA under subsection (b)(1), may enter into a DPA to retire the debt." 83 Ill. Adm. Code 280.120(b)(2)(C). Such DPAs will be available for any customers with past due balances at the end of the state of emergency period. Consumers April 6 Response at 2.

Because the state of emergency comes at the end of the heating season, Consumers is hopeful that a DPA with a six-month term will work for most customers, allowing them to pay down their balances prior to the next heating season. Consumers will extend the DPA term to 12 months as needed. For any customer with an existing DPA, the DPA will be recalculated based on their new balance. Reinstatement fees for DPAs will be waived for a period of six months after the end of the state of emergency.

10. MidAmerican's Position

a. Terms

MidAmerican initially proposed to offer DPAs of 12 months to non-LIHEAP customers and 18 months for LIHEAP customers. However, in light of MidAmerican's clarification that income level will not impact access to the revised credit and collection policies, MidAmerican revised its initial proposal to now offer 18-month DPAs to all residential customers regardless of income status for the six-month period after the public health emergency ends. The revised term is consistent with Intervenor proposals, which range from 12-24 months. For non-residential customers, MidAmerican states that it will offer DPAs with terms of up to nine months. According to MidAmerican, these options: (1) are more generous than those currently required by Part 280; and (2) satisfy the goals of the Emergency Interim Order.

b. Down Payment

MidAmerican's revised policies continue to require a down payment for DPAs; however, consistent with the winter disconnection rules, MidAmerican states it will cap the down payment at ten percent of the outstanding balance. The Company argues this is appropriate in light of the general goals of DPAs: balancing the realities of a customer's cash flow against the need to pay down outstanding debt.

c. Amended/Renegotiated DPAs

MidAmerican states that Part 280.120(j) gives it discretion to reinstate defaulted DPAs; however, MidAmerican has long since revised its policies to allow all customers to reinstate defaulted DPAs as long as the installments owing to that date are paid. MidAmerican does not assess a charge to reinstate a DPA, and customers can reinstate DPAs as many times as necessary.

With respect to DPA renegotiations, MidAmerican will continue to follow Part 280.120 (k) and allow DPAs to be renegotiated once; however, to remain consistent with the more flexible DPA terms offered to customers for the six-month period after the public health emergency, MidAmerican will allow the renegotiated DPA to have up to an 18-month term.

11. AG's Position

The AG argues that every Illinois regulated utility should offer its customers a minimum (or default) 12-month term to pay back their past due amounts. For those customers who self-certify to financial hardship, the AG argues that utilities offer those customers 18-24 months to repay arrearages.

Section 280.120(b) requires utilities to offer residential customers owing a past due amount a DPA so long as a customer has not defaulted on a previous DPA. 83 Ill. Adm. Code 280.120(b)(1) (Mandatory offering by the utility). The rule further provides that the DPA "shall be set between 4 to 12 billing cycles," and that "[i]n determining the length of time to offer, the utility shall take into account the ability of the customer to successfully complete the DPA." 83 Ill. Adm. Code 280.120(g)(1). The rules also provide that for low-income customers, the DPA term shall be 6 to 12 months, although the utility retains the discretion to increase the DPA term "for a period longer than 12 months." 83 Ill. Adm.

Code 280.125(c). The rules provide utilities with the discretion to set DPA terms beyond 12 months. The AG maintains that requiring a default DPA term of no less than 12 months is consistent with the Commission's Emergency Interim Order, eliminates discretional and/or subjective uncertainties, and removes the need to separately negotiate each and every DPA, which will help ensure that customers struggling to navigate and adjust to post-pandemic conditions can focus more on regaining their income stability.

The AG argues that the temporary procedures provide that a DPA can be amended, renegotiated, or reinstated throughout the DPA without disconnection, or incurring any fees or reconnection charges. The Commission should direct the utilities to accommodate consumers, many of whom face financial uncertainties coming out of the restrictions and dislocations from the COVID-19 emergency period. Circumstances may improve rapidly for some, but lag for others. Income and employment may be uneven. To protect consumers' access to essential utility service and encourage consumers to proactively address payment issues when they arise, the utilities should allow amended, renegotiated, or reinstated DPAs upon customer request. This will avoid the stress associated with the threat of and actual disconnection in the event of changed circumstances and encourage continuous payments, even if at a reduced rate.

The AG argues that DPA down payments should be waived. Lump sum down payments can be significant obstacles to initiating and maintaining successful DPAs. The AG notes that down payments are likely to become fatal obstacles for customers, many of whom have lost jobs, lost contracts, and are confronted with no income, or substantially reduced income, from closed or lost business. The AG points out that even before the COVID-19 crisis occurred, the United States Energy Information Administration reported that approximately 30% of American households have had to make the difficult choice of paying either energy costs or purchasing food and medicine; or at least once or twice each year, whether to pay for housing. The AG argues that the temporary waiver of down payments is most consistent with the Commission's directive to ensure Illinoisans remain connected to essential services after the disconnection moratorium ends.

12. City-CUB's Position

City-CUB posit that the uncertain duration of the pandemic emergency requires an adjustment of standard DPA term lengths. City-CUB maintain that the default and individual maximum DPA terms must not be based on past practice or hopes of a fast return to "normalcy."

Several of the utilities recognize that a realistic pandemic-era DPA term must be longer than is currently provided, but their proposals are inconsistent. City-CUB argue that what is needed are universal, consistent (longer) DPA periods upon which consumers can rely.

City-CUB recommend that a period of 24 months for all consumers be standard across utilities, for DPAs entered into during the 12 months following the end of the state of emergency. Even with longer default DPA terms, utilities will retain the ability to reach balanced agreements with consumers. City-CUB contend that the Commission should make clear that utilities may exercise discretion and flexibility to address individual consumer circumstances with even longer payment periods or more accommodating arrangements when consumer circumstances warrant. At the same time, consumers who

are able can agree to deferred payment periods shorter than the default. Consumers currently on DPAs could eliminate their debt in less than the default DPA term, since, City-CUB assert, there should be no penalties for prepayment under a DPA.

Additionally, for DPAs entered into during the 12-months following the end of the state of emergency, City-CUB contend the Commission should direct utilities to eliminate interest and carrying charges on the past-due balance. Currently if a customer defaults on a DPA, customers would work with the utility to reinstate the DPA, pay a reinstatement fee and pay back all of the missed installment payments. 83 Ill. Adm. Code 280.120(j), (k). City-CUB assert that these requirements should be relaxed, concluding that any customers that have existing DPAs should be offered the opportunity to reestablish the payment terms under the revised DPA accommodations if they cannot afford the payment arrangement they have now.

City-CUB maintain that customers under extreme distress from economic disruptions of the pandemic will require the economic relief provided by DPAs. Yet, City-CUB observe, customary barriers to DPA entry would put these vulnerable customers at particular risk, because Part 280.120(f) requires a deposit of 25% of the past due amount from non-low-income customers and Part 280.125(b) requires a 20% deposit for low-income customers. While these Sections allow for utility discretion to decrease the amount of the deposit or extend the time over which the deposit is amortized, City-CUB assert the default provisions should be relaxed to accommodate the unprecedented circumstances.

For consumers seeking DPAs, City-CUB request that the Commission direct utilities to waive down payments when triggered. The pandemic's extraordinary economic pressures are likely to deplete consumers' cash on hand, and to continue for some time.

13. COFI's Position

COFI argues that the Commission's objective in establishing more flexible DPA terms should be to ensure that the additional monthly amounts owed as a result of the DPA are as low and affordable as possible. Keeping DPA amounts low requires a significant lengthening of DPA terms than typically offered by Illinois utilities.

It is important to note, too, that utility DPAs, as offered and presented by Illinois utilities, have a dismal track record in enabling customers to successfully retire arrearages. Recent compliance filing reports filed in May of 2019 by the four major Illinois electric and gas utilities pursuant Part 280.180(h) reveal, in most cases, shockingly high default rates.

The failed legacy of utility DPAs must inform the Commission's actions in this docket and going forward and argues for significantly more flexible terms. The proposed terms presented by the utilities, which vary significantly in many cases, highlight the need for the Commission to establish a single, default, minimum DPA term for both low-income and non-low-income residential customers.

While COFI supports the DPA-term extension to 24 months, the problem with ComEd's proposal is that it in no way guarantees that customers will obtain the longer DPA terms cited. These requirements seem to create a new category of low-income customer – what is essentially the "provably unemployed."

Ameren proposes an 18-month DPA term for non-low-income customers and a 24-month term for low-income customers. If proposed as default DPA terms, COFI supports this proposal as a best practice. Ameren, however, continues to consider only LIHEAP or PIPP customers as qualifying for low-income status – an untenable barrier to more robust protections.

Another troubling aspect of all the utility offerings is the requirement that customers pay a minimum 10% down payment before entering into the DPA. Even that offer, which is unnecessarily punitive given the current economic conditions, requires a customer to demonstrate financial hardship, according to the utility filings. This is untenable when consumers may be facing bills of many hundreds of dollars, depending on whether a customer had a pre-COVID-19 arrearage.

It is unclear what information or data, if any, was used to design and support the proposed approaches. No rationale is cited for the figures chosen and the policies proposed. In addition, no mention is made whether customers who default on a DPA will be offered a second plan that is as long or longer than the existing DPA. COFI can support the 24-month default term recommended by CUB for *all* customers. Importantly, too, both the AG and CUB, like COFI, recognize that no two customers' financial situation is the same, and call for the ability for customers to negotiate for longer terms than these default terms based on an individual's financial circumstances and ability to pay.

In order to best serve the needs of financially troubled customers in this unusual time of great financial instability, COFI, again emphasizes the need to take an expansive view of flexible C&C procedures with clear default minimum terms in place. With these points in mind, COFI urges the Commission to adopt the following DPA terms for residential customers:

- Non-low-income customers: Default term of 18 months (customer may request a shorter or longer term).
- Low-income customers: Default term of 24 months (customer may request shorter term if preferred or longer term if circumstances require).
- Eligibility established through proof of proxy assistance programs and self-certification.
- Waiver of DPA down payments.
- Option to combine DPA with a 12-month Budget Billing option, which then includes current bill in monthly payment.
- When a customer defaults on a DPA, the utility shall offer another payment agreement for a term equal to or greater than the first.
- Clear description of new flexible DPA terms in a separate notice to customers and again in all disconnection notices.

COFI states that the utilities' proposals, if adopted, would lead to a patchwork of DPA provisions among a customer's electric, gas and water utility services, causing confusion and financial distress. COFI's more flexible proposal takes the best practices

of each utility proposal and combines them into a coherent framework that will provide customers with the flexibility needed to stay connected to essential utility service.

14. Cherry's Position

Mr. Cherry states that there should be no deposits or down payments for those seeking to participate in DPAs. The utility responses uniformly increase the time to repay an outstanding balance on a deferred basis. This is good and necessary. But it also is not enough, as a payment plan than extends three years is often a payment plan doomed to failure. Mr. Cherry suggests a plan with an arrearage incentive/arrearage retirement component. For each one-time payment of a payment plan, one twelfth of the customer's arrearage should be retired.

15. Commission Analysis and Conclusion

See Section III.K. below.

H. PIPP

1. ComEd's Position

There is nothing in Sections 8-505 and 8-508 that authorizes the Commission to adopt any aspect of COFI's proposal that the utilities should implement a parallel PIPP program. The Act already has provisions for PIPPs. 305 ILCS 20/18. The Act cannot correctly be read to have a highly general provision that also authorizes the Commission to require utilities to fund a different PIPP. To do so with no guarantee of cost recovery would make it even worse from a legal perspective, by violating the utility's right to rates that give it an opportunity to recover fully its cost of service.

Moreover, devising such a program "on the fly" is an unsound approach. It does not take into account the unique circumstances and available resources of each utility. The Intervenors argue that there is not enough time to address cost recovery specifics. The Intervenors' arguments against addressing cost recovery specifics generally apply with the same force to their proposals to achieve a one size fits all uniform outcome on an expedited basis with limited procedural steps and protections. To help meet customers' urgent needs now, ComEd recommends that the parties focus on pragmatic ways to improve existing programs. For example, ComEd is interested in ways to improve PIPP to see if it can work better for more customers. ComEd looks forward to discussions on this topic with interested parties outside of this proceeding.

Finally, COFI's proposal should not be adopted because it might result in a program that would be redundant with the existing ComEd Supplemental Arrearage Reduction Program ("SARP") program, which ComEd is in the process of expanding. Like PIPP, SARP gives customers a reduction credit and requires the customer to use budget billing. ComEd has offered its SARP program since November 2019, which provides arrearage reduction credits – 1/12 of the arrearage up to $83.33/month ($1,000/year max) – for income eligible customers who exhibit positive payment behavior. SARP is currently funded with excess collected PIPP funding ($0.08 incremental change). *Id.* Currently ComEd solicits eligible LIHEAP recipients by mail or email to enroll in SARP; interested customers must agree to enroll in Budget Billing to receive monthly SARP credits. If payment is made on time and in full, the customer will receive a monthly credit towards the pre-program arrearage.

ComEd's SARP program is currently managed manually, which means that all of its features – from customer solicitation to application of arrearage credits – must be performed manually. ComEd is in the process of automating its SARP program, which would allow it to increase program enrollment. The IT changes needed to automate and ultimately expand SARP are expected to be completed in the fourth quarter of 2020.

2. Ameren's Position

Ameren Illinois explains that COFI asserts that more flexible credit and collection procedures will not be enough to keep thousands of low-income Illinoisans connected to utility services and points to the state budget impasse of 2015-2017, when state agency budgets were frozen, DCEO was forced to discontinue PIPP and electric and gas utilities worked with stakeholders and the Commission to retain arrearage reduction program component of PIPP. Ameren Illinois asserts that while it is true that the electric and gas utilities, including Ameren Illinois, did work together to retain the arrearage reduction program the circumstances were different. Ameren Illinois explains, as pointed out by COFI, the state had a budget impasse and therefore they were unable to pass a budget to distribute funds to DCEO. Ameren Illinois points out this is not the case in this situation because the state has a budget and is able to distribute money as necessary.

Ameren Illinois explains that although it agrees that an arrearage program is a good incentive to prompt payment and promote earned debt forgiveness, COFI's proposal would be not only be burdensome on the utilities but also very costly. Ameren Illinois states that a successfully functioning PIPP requires automation and funding and utilities do not have access to funding that would support a meaningful number of participants nor do most have the resources available to build such a program internally. Ameren Illinois notes that the success that the current Illinois PIPP enjoys is the result of years of hard work, collaboration and dedication by most parties filing responses in this proceeding. Ameren Illinois explains that it did not occur overnight and is likely not a viable option in the next six months. Ameren Illinois states that this docket is the improper forum to make changes. As an active member of the LIHEAP Policy Advisory Council, AIC is always open to future collaboration to improve the program. The Commission and the parties should recognize establishing a robust program similar to PIPP or other programs would take years to develop and implement in order to create a functional program that would have real benefits for customers. Ameren Illinois believes that such a program would be a costly undertaking which no one has properly investigated. Ameren Illinois states that requiring utilities to front even more money in a time, when they themselves will be negatively impacted by the economic fallout, and with no guarantee of recovery of costs is unmerited.

Ameren Illinois agrees with ComEd and NSG-PGL that nothing in Sections 8-505 and 8-508 comes close to authorizing the Commission to adopt any aspect of COFI's proposal. As ComEd states, Section 8-505 has never been read so broadly as to mean that the Commission essentially can order anything it concludes is a good idea. Additionally, if Section 8-505 was interpreted so broadly, that would be grossly at odds with precedent, the regulatory compact, and the other provisions of the Act. Ameren Illinois agrees with NSG-PGL that if the state believes that the current PIPP program should be enhanced, then there is a funding mechanism currently in place and the state

may act quickly to address those concerns, and the financing responsibility should not fall on the utilities.

Ameren Illinois asserts it would be imprudent to require utilities to take on the additional expense to implement COFI's other proposed credit and collection procedures and as such, the Commission must reject COFI's recommendation.

3. Large Water Utilities' Position

The Large Water Utilities oppose imposition of a parallel, required utility PIPP as contrary to the Commission's Emergency Interim Order, unworkable given the emergency situation, and underdeveloped in terms of cost impact, procedural propriety, and actual effectiveness. Nevertheless, the Large Water Utilities note that this particular proposal does not appear to apply to them.

4. Nicor Gas' Position

Nicor Gas opposes COFI's proposal that the utilities should implement a parallel PIPP program.

5. NSG-PGL's Position

NSG-PGL explain that the already-existing PIPP program is one of several programs that are available to help low income customers manage the costs for utility service. PIPP is established by Illinois law under the Energy Assistance Act ("EAA"). *See* 305 ILCS 20/1 *et seq.* The PIPP program is funded under statutory mechanisms provided for in the EAA that establish certain energy assistance funds. *See* 305 ILCS 20/10, 13. NSG-PGL explains that the PIPP program is administered by the DCEO, with involvement by the Commission. NSG-PGL emphasize that implementation of the currently effective PIPP program was the result of a years-long process.

NSG-PGL first observe that the parallel PIPP program suggested by COFI is likely illegal and bad policy. NSG-PGL note that COFI observes that the PIPP program is currently not sufficiently funded to assist all customers who could take advantage of the program. COFI's proposal to address this problem is for the Commission to order the utilities to establish the funding of a parallel PIPP available to those customers unable to access LIHEAP assistance in the weeks ahead. COFI's proposal should not be adopted by the Commission.

NSG-PGL characterize COFI's "parallel PIPP" proposal as quite unusual. As an initial matter, NSG-PGL believe it is highly questionable whether the Commission possesses legal authority to order utilities to "establish the funding" to run a program in parallel to an existing statutorily mandated program such as PIPP because the existing program lacks full funding. NSG-PGL note that COFI's discussion of its parallel PIPP program proposal does not cite specific legal authority or precedent that would support such an unusual step. While COFI points in passing to the general provisions of Sections 8-505 and 8-508 of the Act that the Commission cited in its Emergency Interim Order, NSG-PGL argue that such a generic citation is a far cry from establishing a solid legal basis to force self-funding of a parallel program by the State's utilities.

Moreover, according to NSG-PGL, if the State of Illinois believes that the PIPP program should be enhanced, the Illinois General Assembly is the body that should make

the enhancement, by providing immediate, additional PIPP funding through the current program. NSG-PGL observe that although governments typically work slowly, the events of the past few weeks demonstrate that governmental entities at the federal, state, and local levels can work very quickly when circumstances demand swift action. For example, as the Intervenors are aware, in response to the COVID-19 public health emergency, the federal government has increased LIHEAP funding by nearly $1 billion via expedited legislation. According to NSG-PGL, the State of Illinois has similar capacity to expand PIPP funding if it so chooses. However, according to NSG-PGL, bypassing legislative processes via an agency order to force utilities to self-fund a parallel program, in the absence of clear legal authority for such action, would raise more questions than it would answer.

6. IGC's Position

While IGC understands the usefulness of a PIPP program for larger utilities, it represents another example of a proposal that is not suited for a smaller utility like IGC. IGC knows and already works with its customers facing financial hardship to determine what payment arrangements are helpful to them. Instituting a formal PIPP requirement for small utilities is not necessary. If the Commission is inclined to require a parallel PIPP program, IGC urges the Commission to consider only doing so for larger utilities (i.e. those with 10,000 customers or more).

7. Mt. Carmel's Position

Mt. Carmel is opposed to the "parallel" PIPP being advocated by COFI. First, there is no Commission authority to order utilities to create a fund for PIPP. Second, this is a proposal that would cause financial harm to the utilities for fronting money. PIPP is a state funded program by statute and should be left at that. If the Commission decides to order a PIPP, there should be a small utility exemption.

8. Consumers' Position

Consumers agrees with the positions of the other utilities opposing PIPP-related proposals. Consumers also believes that implementing such a program on a temporary basis would be unduly burdensome for a small utility like Consumers.

9. COFI's Position

COFI states that given the financial cliff that awaits low-income customers once the shut off moratorium is lifted, and the acknowledged inadequacy of more flexible C&C procedures to minimize the fallout, the Commission should order the utilities to establish the funding of a parallel PIPP available to those customers unable to access LIHEAP assistance in the weeks ahead. The utilities should be ordered to work with DCEO and the community action agencies to investigate whether initiation of the parallel program can operate as a part of agency services after the anticipated demand for LIHEAP assistance subsides.

Funds utilized to cover the costs of the parallel PIPP could be recorded in a deferred account. Issues surrounding cost recovery would be addressed in a future Commission order within this docket, along with the issues surrounding the moratorium on late fees and other ordered actions. Due to the extraordinary financial fallout of the pandemic, the closure of non-essential businesses, and the exponential increase in

unemployed Illinois residents, this extraordinary action is needed to ensure that the thousands of families impacted by the pandemic and the accompanying shutdown of the economy will be able to retain essential utility service.

The Commission acknowledged its authority to take extraordinary action in its Emergency Order, citing its authority under Section 8-505 and 8-808 of the Act to order the existing shut off moratorium. 220 ILCS 5/8-505; 220 ILCS 5/8-508. The Commission should continue to act on that authority here to protect the most vulnerable among us, who are as deserving of access to essential utility service as any other customer whose income, particular profession and good fortune have, to date, insulated them from the economic fallout of the COVID-19 pandemic.

10. Cherry's Position

Mr. Cherry supports COFI's proposal on this issue.

11. Commission Analysis and Conclusion

See Section III.K. below.

I. DEBT COLLECTORS AND CREDIT REPORTING AGENCIES

1. Staff's Position

Staff sees merit in cessation of reporting of late payments and non-payment to credit bureaus and reporting agencies. In Staff's view, these activities may resume after six months from the date upon which the Governor announces the end of the COVID-19 state of public health emergency

2. ComEd's Position

ComEd, as of March 16, 2020, temporarily suspended sending newly delinquent accounts to collection agencies, and would adhere to that suspension through the moratorium period. ComEd also temporarily suspended all debt collection activities for accounts placed with collection agencies. Further, ComEd's Special Claims Litigation Group temporarily suspended new demand letters related to such collection activities and is seeking continuances for collection-related court proceedings. ComEd does not propose to continue the suspensions after the moratorium.

With respect to collection activities, after the end of the moratorium, ComEd must have the discretion to resume collection activities when it believes them to be warranted. ComEd is required to pursue the minimization and collection of uncollectible costs in a prudent and reasonable manner, consistent with the six enumerated activities under Section 16-111.8 of the Act. 220 ILCS 5/16-111.8(c). One of those six activities – pursuing collection activities based on the level of uncollectible costs – requires ComEd to pursue the collections of those accounts that have "finaled" (*i.e.*, the customer is no longer being billed for electric service) with an outstanding balance.

With respect to credit reporting, after the end of the moratorium, ComEd notes that its credit agencies – not ComEd – undertake credit reporting.

3. Ameren's Position

Ameren Illinois states that its understanding of the intent of the Commission's Emergency Interim Order was to provide customers with flexible credit and collection procedures to allow all Illinois residents access to essential utility services during these unprecedented events. Ameren Illinois explains that the Intervenors' recommendation that utilities cease all credit reporting and collection activities is not aligned with the intent of this Emergency Interim Order. Ameren Illinois has indicated that these activities occur only after the account is closed and the person is no longer a utility customer. Ameren Illinois explains that rather than allowing unpaid debt to be written off as uncollectible and socialized through rates, Ameren Illinois suggests that collection practices with respect to closed accounts not change. Additionally, Ameren Illinois states that it does not report to credit agencies and to the extent that on collections of written off accounts, its third-party collection agencies do report, Ameren Illinois has ordered those agencies to temporarily suspend reporting. Ameren Illinois proposes that it be allowed to resume collection of written off accounts by July 1, 2020.

4. Large Water Utilities' Position

The Large Water Utilities oppose imposition of statewide mandated credit and collection policies and procedures as contrary to the Commission's Emergency Interim Order, unworkable given the emergency situation, and underdeveloped in terms of cost impact, procedural propriety, and actual effectiveness.

5. Nicor Gas' Position

Nicor Gas states that it turned off any collection-related communications to current customers on March 16, 2020. Nicor Gas opposes the additional recommendations of the Intervenors regarding debt collectors.

6. NSG-PGL's Position

NSG-PGL explain that in ordinary times, NSG-PGL have a duty to their customers to pursue uncollectibles, pursuant to Section 19-145 of the Act. However, in light of the unprecedented situation and difficulties that NSG-PGL customers are facing, NSG-PGL support suspending the use of external debt collection agencies to pursue the minimization and collection of any balances in arears during the state of emergency and for six months thereafter.

With respect to use of credit reporting agencies, NSG-PGL do not currently report to such agencies. NSG-PGL do not intend to deviate from their current practice during the COVID-19 emergency or for the six-month period thereafter.

NSG-PGL agree to these actions so long as the Commission provides assurance in its order that suspension of use of debt collection agencies and credit reporting will not be held against NSG-PGL in a future Rider UEA reconciliation proceeding on the issue of compliance with Section 19-145 of the Act. 220 ILCS 5/19-145.

7. IGC's Position

As a small utility, IGC only works with one collection agency and does not submit debt to the agency until it is at least one year past write-off in IGC's billing system.

Furthermore, over the past three years, no accounts have been sent to the collection agency. IGC does not work with a credit reporting agency. IGC Reply at 11.

8. Mt. Carmel's Position

Mt. Carmel does not use debt collectors or credit reporting agencies. However, Mt. Carmel is opposed to a uniform plan which would prohibit or limit those utilities that do use such entities.

9. Consumers' Position

Consumers will not refer late payment or non-payment to debt collectors or credit reporting agencies during the six-month period following the end of the emergency period.

10. City-CUB's Position

City-CUB contend that at a minimum, each utility should suspend all debt collection activities for accounts placed with collection agencies. ComEd has committed to suspend sending newly delinquent accounts to collections during the moratorium period. City-CUB maintain that this should be required of each utility and should extend for a period of one year after the state of emergency. City-CUB add that the suspension of activity should include stopping any "reminders" from collection agencies and cessation of adverse reports to credit reporting agencies.

11. COFI's Position

Most, if not all, utilities have suspended collection activity during the moratorium. COFI asserts that the utilities' silence on extending any existing moratorium on debt collection and credit reporting (to the extent utilities engage in credit reporting) is troubling. Given the financial upheaval triggered by the Governor's emergency shelter-in-place order and the closing of schools, universities and non-essential businesses, the Commission must recognize the economic upheaval the events of the last several weeks have triggered. Expecting that utility customers, who experienced job losses or working hours reductions, incurred new expenses associated with the crisis or experienced illness and other life changes, can make timely utility payments-in-full is unrealistic. A negative credit report can exact untold costs on a consumer that affect a person's ability to rent an apartment, obtain a job and other hidden costs. All credit reporting, to the extent it exists, should be ceased until further notice.

12. Commission Analysis and Conclusion

See Section III.K. below.

J. CUSTOMER COMMUNICATIONS

1. ComEd's Position

On March 13, 2020, ComEd voluntarily announced a moratorium on disconnections for non-payment and a waiver of late payment fees that went into effect on March 16, 2020 through at least May 1, 2020, and that ComEd, in light of the Emergency Interim Order, committed to continuing the moratorium through the end of the public health emergency. ComEd suspended disconnection notices and calls on March 16, 2020 and ComEd is committed to actively engaging with customers experiencing financial hardship. ComEd is informing all of its customers about the moratorium's

protections through multiple channels. Further, ComEd's customer service and customer relations representatives received training on the new protections and have been instructed to provide customers with information about the moratorium as appropriate. Finally, ComEd's Large Customer Service department informed large commercial and industrial (C&I) customers about the moratorium.

ComEd agrees that it is important to communicate with its customers to drive awareness of, and participation in, its various customer assistance programs. ComEd has provided, and intends to continue providing, its customers with information about different customer assistance offerings through a variety of channels. *See* ComEd March 27 Response, Attachments B through F. The exact content and timing of ComEd's communications will be based on ComEd's unique understanding of its customers and their circumstances. As such, ComEd cannot commit to using the AG's exact proposed wording or timing.

ComEd supports the Commission's balance of a moratorium on non-payment disconnections and disconnection notices during the emergency followed by more flexible credit and collection policies for at least six months after the end of the moratorium, subject to a utility's ability to voluntarily extend a moratorium on disconnections (and disconnection notices) for non-payment. ComEd is also mindful of the existing statutory and regulatory limits on winter and low temperature disconnections, as discussed earlier. Thus, ComEd does not agree with CUB's proposal.

ComEd agrees that it is important to communicate with its customers to drive awareness of, and participation in, its various customer assistance programs. ComEd intends to continue providing its customers with information about different customer assistance offerings through a variety of channels. When disconnection notices resume again, ComEd intends to fully comply with the Disconnection Notice and Notice Insert templates provided in Part 280, see 83 Ill. Adm. Code 280, APPENDIX A ("Disconnection Notice"), APPENDIX D (Disconnection Notice Insert for Residential Gas and Electric Customers), which require that ComEd provide information about customer assistance programs in the notices. As such, it is unnecessary for ComEd to commit to COFI's exact communication content and timing suggestions.

2. Ameren's Position

Ameren Illinois states that it agrees communication with its customers is key in times like these. Ameren Illinois explains that since the start of the COVID-19 pandemic, it has been reaching out to customers to keep the lines of communication open and reassuring them that it wants to help them navigate through these unprecedented times. Ameren Illinois states that it has emphasized that it has suspended non-pay disconnections and is waiving late payment charges to lessen the worries that customers are currently facing. Ameren Illinois also states it has made, and continues to make, changes to its website to more clearly explain options available to customers. Ameren Illinois notes that in addition to actions previously stated, it plans to send separate letters to customers that have fallen behind to explain programs that may help lessen the financial burden. Ameren Illinois explains that it will be placing new messages on its bills to encourage customers needing help to contact Ameren Illinois. Ameren Illinois indicates that it is developing an email and a corresponding in-bill communication for all customers

that will provide details as to ways it can help. Ameren Illinois states that in addition to its DPAs, Budget Billing, Flex Pay and Pick a Due Date programs, it also provides customers information on external customer assistance programs such as LIHEAP, Warm Neighbors Cool Friends and the State and Federal programs now available to businesses. Ameren Illinois asserts that it recognizes the implications and impact of the coronavirus continue to evolve and therefore, so too will the ways it supports and communicates to its customers. Ameren Illinois recommends the Commission reject the proposals put forth by the Intervenors and instead permit the utilities to implement their own customer communication strategy.

3. Large Water Utilities' Position

The Large Water Utilities note that the Intervenors propose varying customer communications practices, which they argue should be applicable to all utilities, regardless of each utility's service type, tariffed rates, terms, and conditions of service, regions served, billing and collection system, or customer base. The Large Water Utilities oppose imposition of statewide mandated credit and collection policies and procedures as contrary to the Commission's Emergency Interim Order, unworkable given the emergency situation, and underdeveloped in terms of cost impact, procedural propriety, and actual effectiveness. Nevertheless, the Large Water Utilities note that they are already communicating with their customers, via a variety of media, regarding each utility's response to the COVID-19 emergency.

4. Nicor Gas' Position

Nicor Gas emphasizes that it has already implemented a number of customer communications, including issuing a press release on March 14, 2020 regarding Nicor Gas' voluntary suspension of gas service disconnections for non-payment, sending an email to customers on March 17, 2020 regarding Nicor Gas' response to the COVID-19 outbreak, including the provision of energy assistance resources for those in need, and addressing the suspension of disconnections for nonpayment and late payment fees in utility bill messages. Nicor Gas also states that it is continuing to develop and distribute notices to customers around Nicor Gas' ongoing response to the emergency, including, but not limited to, through emails, bill messages, and website postings. In addition, Nicor Gas confirms that, through its ordinary manner of implementing new processes and procedures, Nicor Gas will ensure that its call center representatives are informed about the additional accommodations approved in this proceeding.

5. NSG-PGL's Position

Since March 18, 2020, NSG-PGL have already begun notifying all households at risk of disconnection of the emergency shut off protections and have continued that customer communication process. NSG-PGL agree that customer service representatives should receive training associated with the new credit and collections programs and are in the process of implementing that training. NSG-PGL indicate that the training will be updated to reflect the directions and any new procedures included in any future Commission order.

6. IGC's Position

IGC will provide an insert with disconnection notices outlining additional payment options adopted through this docket if it is allowed to resume sending disconnection notices after the moratorium ends. As for the other general information City-CUB wishes utilities to provide, if directed to do so by the Commission, IGC can provide such information on its website and include a reference to the information being available on its website through bill messages.

7. Mt. Carmel's Position

Mt. Carmel has and will continue to communicate with its customers. Each utility has different relationships with its customers and each utility should be able to utilize those relationships in their unique circumstance to be able to communicate and educate its customers. No uniform set of communications should come from an order that would require certain language, inserts, forums and other communique to be sterile and remove the conversational aspect between the utility and its customers from the process.

Uniformity of communications would require additional costs that are not warranted. Again, a one size fits all approach has no merit. If the Commission orders standardized communications, small utilities should be exempted.

8. Consumers' Position

Consumers will work with customers on an individual basis, focusing on the individual needs of each customer.

9. AG's Position

The AG argues that the utilities should send a letter to customers with past due balances that outlines available payment options to their customers on May 1, 2020 or promptly once the emergency status ends.

10. City-CUB's Position

City-CUB note that the communications described by the utilities range from reassuring and informative e-mails to reminders (beyond regular billing) of outstanding debt. While utility outreach will be critical to informing customers of their rights, for consumers deprived of income by a public health emergency and uncertain when (or if) they can return to employment, City-CUB point out that ill-considered contacts can be distressing to customers and unhelpful for the utility. The Commission should encourage utilities to exercise more than the usual care in the circumstances. In addition to notifying all households at risk of disconnection of these emergency shut-off protections, City-CUB argue the Commission should also direct utilities to conduct additional outreach and customer education to inform customers – *i.e.* through their websites, email, electronic billing communications, and/or direct mail – of the interim reconnection and payment processes described in its Emergency Order and recommended herein.

City-CUB assert that the burden of remaining informed about access to utility services is a challenge this proceeding should endeavor to minimize. City-CUB have proposed that uniform, universally applicable accommodations be adopted, to define clearly understood accommodations consumers can rely upon and to reduce the need for consumer education and re-education, over time.

City-CUB recognize that the current environment is likely to change – perhaps significantly – before Part 280 utility practices can approach a return to normalcy. Indeed, as conditions change, the special accommodations defined in this docket may also need to change. City-CUB argue that utilities are uniquely positioned to reduce the burden on their customers as to both initial accommodations regarding emergency utility disconnection, billing, and collection practices, and any later re-education required by subsequent modifications.

City-CUB conclude it appears that many utilities recognize that advantage and have already begun to engage consumers more proactively. ComEd Response at 6-7; Ameren Response at 6. Expanded utility action in this sphere can assist consumers by providing more than just regulator-required disclosures or information about only its own policies and practices.

As expert sources on utility matters, and one of the few areas of commerce still operating, City-CUB believe utilities can reach their customers with credible information on topics of critical importance in maintaining essential services. In addition to timely information in its required notices, City-CUB contend that the Commission should encourage broader, proactive utility engagement and education and that the Commission should consider delineating in its orders the areas where utilities are encouraged to use their unique expertise and experience – and which are especially important in this emergency.

11. COFI's Position

In its Emergency Interim Order, the Commission recognized the importance of keeping customers apprised of changes in utility credit and collections practices. Consumers facing joblessness, food insecurity, long wait times for assistance in seeking unemployment benefits and other new realities of the post-coronavirus world should not be forced to guess what their utility payment options are. Frequent communication with customers now and when the moratorium is lifted is essential to keeping customers informed of their payment options and responsibilities. Failure to do so will only add stress and confusion to financially struggling customers' lives, and force tough decisions as to how to apportion limited, if not non-existent funds for essential food, medication, shelter and utility services.

To that end, the Commission should require that all electric, gas and water utilities provide detailed information to customers regarding the new flexible C&C protections adopted in this proceeding. In addition to separate communications detailing the new policies, any disconnection notices sent should include the same detailed information about new flexible C&C options available. Consumers cannot make informed decisions as to how to apportion limited funds if they are unaware of options available to them.

12. Commission Analysis and Conclusion

See Section III.K. below.

K. Commission Analysis and Conclusion

In the Emergency Interim Order, the Commission requested that the utilities file a response to show compliance with the Order or if not, to show cause why it is unable to issue said moratorium and revised credit and collection procedures. The Commission

has found that all of the utilities that filed responses, complied with that request. This proceeding was not intended to be a rulemaking or a proceeding to make changes to Part 280 of the Act. There was no notice to any party that this was anything more than a compliance proceeding. If the Commission is going to engage in a rulemaking, that choice must be clearly indicated at the beginning of the proceeding and then followed. 220 ILCS 5/10-101.

The Commission notes that the utilities vary by size, type of service, customer make up and financial capability to provide certain flexible credit and collection options. The utilities have different credit and collections approaches, depending on their systems, when it comes to issues of deposits and fees, debt collection, DPAs, reconnection, and outreach to customers to inform them of available relief. The Commission also finds that customers of the various utilities have different needs whether within the same service territory or in different regions. It is difficult for the Commission to determine whether uniform rules would be in anyone's best interest.

The Commission declines to adopt any of the proposals under Section III. of this Order.

IV. DATA REPORTING

A. Staff's Position

Staff notes that it is relatively simple for a utility to implement the "cease disconnections" order, as it requires each utility to simply refrain from disconnecting customers for non-payment over a specified period. However, Staff observes that the Commission's other goal – minimizing disconnections after the public health emergency – is relatively more difficult to accomplish, in light of the fact that a utility might, in good faith, propose and implement more flexible credit and collection procedures which nonetheless prove over time to be less effective than anticipated.

Accordingly, Staff recommends that the Commission take steps to monitor the effectiveness of each utility's revised credit and collection procedures by directing each utility to report twice per month during the six-month period beginning at the cessation of the declared public health emergency, the following for each semi-monthly period:

1. the number of customers, by customer class, disconnected during the period;
2. the number of customers, by customer class, receiving disconnection notices during the period;
3. the number of customers, by customer class, assessed late payment fees or charges during the period;
4. the number of customers, by customer class, taking service at the beginning of the period under existing DPAs;
5. the number of customers by customer class, completing DPAs during the period;
6. the number of customers, by customer class, enrolling in new DPAs during the period;
7. the number of customers, by customer class, renegotiating DPAs during the period;

8. the number of customers taking service at the beginning of the period under existing medical payment arrangements;
9. the number of customers completing medical payment arrangements during the period;
10. the number of customers enrolling in new medical payment arrangements during the period;
11. the number of customers renegotiating medical payment arrangements plans during the period;
12. the number of by customers, by customer class, with required deposits with the company at the beginning of the period;
13. the number of customers, by customer class, required to submit new deposits or increased deposits during the period;
14. the number of customers, by customer class, whose required deposits were reduced in part during the period; and
15. the number of customers, by customer class, whose deposits were returned in full during the period.

Staff recommends such reports be submitted on the first of each month, reporting data from the period beginning the first through and including the fifteenth of the prior month, and on the fifteenth of each month, reporting data from the period beginning the sixteenth through and including the end of the prior month. Staff further recommends such reports be submitted in the docketed proceeding. In the event that the Commission determines that any utility's revised credit and collection procedures are not working effectively in minimizing disconnections for non-payment, Staff observes the Commission can require the utility in question to further revise its credit and collection procedures.

B. ComEd's Position

Several parties, including Staff, recommend that the utilities provide data concerning the flexible credit and collections procedures instituted, though the recommended frequency that the utilities provide such information, varies widely.

ComEd agrees that tracking customer information related to these interim policies and procedures is important. ComEd concurs that this data will be helpful to not only evaluate the effectiveness of the temporary policies and procedures but will also help inform future discussions in the Affordability NOI. ComEd April 10 Reply at 28.

ComEd looks forward to future discussions with the other utilities and all interested parties to try to reach consensus on the particular data, the frequency the data will be provided, and the most helpful medium (*i.e.*, filing, public posting) to provide this information to interested parties. *Id.*

C. Ameren's Position

Ameren Illinois points out that Staff recommends that in the event the Commission determined that a utility's revised credit and collection procedures were not effectively working in minimizing disconnection for non-payment, the Commission require the utility in question to further revise its credit and collection procedures.

Ameren Illinois explains that it agrees that during this time it is important that the Commission monitor the effectiveness of the revised credit and collection procedures.

Ameren Illinois indicates that it supports Staff's proposed semimonthly reporting. Ameren Illinois agrees that the Commission should review the impact that a utility's revised credit and collection procedures is having on its customer base and further agrees that if necessary, the utility should revise their procedures to help their customers through this extraordinary time. However, Ameren Illinois states that Staff's proposed reporting could benefit from a more adaptive and collaborative approach to evaluating the effectiveness of credit and collection procedures. Specifically, Ameren Illinois explains that it is concerned that there is no definitive explanation with respect to the methods the Commission would employ to determine the effectiveness of the revised procedures or the methods the Commission would use to develop and communicate suggested revisions to the utility. Ameren Illinois explains that the Company would request for leave to present contextual information, such as comparison to a comparable period last year, for Staff's benefit as such context informs the significance of the data presented. Ameren Illinois requests that if the Commission believes a utility's revised credit and collection procedures have not provided relief to customers, the Commission allow the flexibility for the utility and Staff to collaborate and revise credit and collection procedures to address specific issues of concern as we move forward. Ameren Illinois explains that a flexible and collaborative approach could identify specific approaches that could then be documented, and such approaches would be based on actual circumstances observed in a utility's service territory.

D. Large Water Utilities' Position

The Large Water Utilities do not oppose temporary mandatory reporting on the data categories that Staff identifies. They agree that such reporting should enable the Commission to confirm that their revised, more flexible credit and collection procedures are operating as intended and keeping customers connected to essential utility services. However, the Large Water Utilities explain, monthly reporting, with regular interim progress reports to the Commission regarding the effects of the COVID-19 emergency on the Large Water Utilities' workforces, operations, and customers, should be sufficient and is more reasonable.

The Large Water Utilities explain that it is not unusual for them to review, within a normal monthly operating period, most of the data categories that Staff identifies. It is atypical, however, for them to collect, organize, assess, and prepare that data for reporting purposes every two weeks. This would require coordination among and demand the time of services company call center and IT personnel. The Large Water Utilities explain that those employees are currently focusing much of their time addressing the unique needs of both customers and a remotely operating workforce occasioned by the COVID-19 emergency. The Large Water Utilities submit that this is where those employees' focus should remain.

Further, the Large Water Utilities believe there is little additional benefit to bimonthly reporting relative to monthly reporting. The Large Water Utilities explain that they bill customers in their various service areas at different times of the month. Bimonthly data regarding customer non-payments and resultant fees and disconnection measures, if any, therefore, could be incomplete and unreliable. It may reflect the circumstances for only one area of the State, and it would not reveal any trends. Monthly data reporting, however, would provide the complete picture.

The Large Water Utilities agree that they should continue to communicate with the Commission often regarding the effects of the COVID-19 emergency after the state of emergency ends. Since the emergency began, the Large Water Utilities have regularly reported to the Commission regarding the effects of the COVID-19 emergency on their workforce, their operations, and their customers. They have reported on the status of their customer communications, reconnections, their workforces' health and stability, their remote work policies, and other issues occasioned by the COVID-19 emergency. The Large Water Utilities believe that those regular communications should continue.

The Large Water Utilities propose a hybrid approach, recognizing that there is value in the reporting that Staff proposes as well as in continued, regular communications among utilities and the Commission regarding the effects of the COVID-19 emergency. Specifically, on the 15th day of each month beginning June 2020 and through November 2020, they propose that they should report to the Commission on Staff's categories of data for the prior calendar month. That is, on June 15, 2020 each Large Water Utility should provide the Commission its data from May 1, 2020 to May 31, 2020. On the 1st day of each month, again beginning in June 2020, the Large Water Utilities propose that they should continue to (now formally) report to the Commission regarding the effects of the COVID-19 emergency on their workforces, their operations, and their customers. (If the 1st or 15th day of any month during the six-month reporting period falls on a weekend or holiday, then the data or interim progress report, as the case may be, would be due to the Commission the following business day.) The Large Water Utilities maintain that this reporting—monthly data reports with interim progress reports—should enable the Commission and the Large Water Utilities to effectively monitor the success of the Large Water Utilities' more flexible credit and collections practices.

E. Nicor Gas' Position

Nicor Gas states that it does not oppose providing monthly reports addressing all of the data points that Staff lists in its response, but Nicor Gas suggests one modification to Staff's proposed reporting that is based upon Nicor Gas' already-existing business practices. Specifically, Nicor Gas suggests providing reporting on Staff's requested credit and collection data points on a monthly basis. Nicor Gas emphasizes that the data provided in this fashion would be sufficiently similar to reports that Nicor Gas already is running in the ordinary course of business such that it can validate the data produced. Nicor Gas states that, in order to address Staff's proposed bi-weekly reporting, Nicor Gas would have to build a manual inquiry process, which has not been tested either as to feasibility or output, and as a result, Nicor Gas would not be certain that the data produced would be sufficiently reliable to inform Staff and others about the customer experience in the period post-emergency.

Nicor Gas observes that certain of the Intervenors also request that the utilities provide reporting on credit and collection data points, but that their requests are not uniform as to scope or timing. Nicor Gas further observes that many of the data points listed by the Intervenors overlap with those listed by Staff and would be included in the reporting recommended by Staff. Nicor Gas asserts that the data identified in Staff's recommended reporting fully encompasses the information that might be relevant to consideration of the customer experience in the period post-emergency, and therefore

Nicor Gas opposes the data reporting recommendations of Intervenors to the extent those recommendations do not align with Staff's recommendations.

F. NSG-PGL's Position

NSG-PGL support Staff's recommendation that in order to assess the effectiveness of each utility's revised credit and collections programs in minimizing disconnection for nonpayment, the Commission will need additional, periodic reporting on key metrics. *See* Staff April 6 Response at 13.

NSG-PGL believe these reporting metrics are comprehensive and will allow the Commission to assess whether the revised credit and collections programs are effective in minimizing disconnections for nonpayment. Further, NSG-PGL explain that they routinely track these categories of information in the normal course of business for compliance with Part 280 and other regulatory programs. Part 280.40(k) (Deposits), 280.60 (Medical Payment Arrangements), and 280.180(h) Winter Reconnections also require the tracking of this customer data. In addition, NSG-PGL track disconnections, disconnection letters, DPAs statistics, and late payment charges in the normal course for other regulatory reporting requirements and to support the NSG-PGL's Riders UEA – Uncollectibles Expense Adjustment proceedings.

NSG-PGL explain that they would prefer to report on these metrics once per month, since that frequency would also allow the Commission to measure results, while lessening the burden on utilities. NSG-PGL explain that they will be able to relatively quickly and cost-effectively implement the additional semi-monthly reporting without the need for extensive system and process enhancements. NSG-PGL support the AG, City-CUB, and COFI's positions on reporting where they align with Staff's position. In addition, NSG-PGL do not oppose imposition of reporting requirements for total customer count and number of disconnections, as recommended by certain of the Intervenors.

However, NSG-PGL object to City-CUB's and COFI's proposal that the various reported metrics should be tracked and reported at the zip code level. NSG-PGL argue that zip code level tracking of the various customer metrics for the six-month period following the state of emergency will not enhance the Commission's ability to determine whether a utility's revised credit and collections programs are minimizing disconnections across an entire service territory. Further, the utilities explain that customer metrics are tracked at the utility service territory level, not by zip code. Implementing such a granular reporting requirement would require extensive – and expensive – process and system changes to NSG-PGL's customer information systems ("CIS"). NSG-PGL argue that those changes would likely take significant time and resources; time and resources that would be better spent focusing on the fundamental goal of providing safe and reliable utility service. Based on NSG-PGL's current analysis, it would take six months or more to implement the necessary CIS changes, meaning that Staff's proposed period of enhanced reporting on the revised credit and collections programs would be near its end or expired by the time necessary systems were in place.

The AG, City-CUB, and COFI also argue that the reported customer data should be segmented by low-income and non-low-income residential customers. NSG-PGL can identify customers that fall within the definition of "Low Income Customer" under Part 280.20. 83 Ill. Adm. Code 280.20. NSG-PGL can also identify those customers currently

participating in the PIPP program. However, the NSG-PGL billing and credit and collections functions do not track customers by income level or amount. NSG-PGL explain that their CIS would require extensive process and system changes in order to accommodate such tracking, and the cost of requesting/verifying/tracking would likely be significant. According to NSG-PGL, these considerations are better suited for evaluation at a time when all available options can be considered and weighed holistically, presumably after the end of the public health emergency.

The AG also asks for reporting at six-month intervals through at least December 31, 2021. *See* AG Response at 14. NSG-PGL explain that this additional reporting would have little value in near real time attempts to implement revised credit and collections programs designed to minimize disconnections in the near term and instead would add unnecessary cost.

G. IGS' Position

IGC is willing and able to accommodate some level of reporting but urges the Commission to carefully evaluate the information called for in the competing recommendations and weigh the benefit of the information obtained against the burden of obtaining it, particularly for a utility the size of IGC. IGC asks that the Commission also bear in mind that for a small utility, time spent by personnel amassing various data sets every 14 days, 30 days, or 180 days is time not spent assisting the very customers that are the subject of those data sets. IGC considers reporting twice a month particularly burdensome for a small utility and recommends that reports be required no more frequently than every 30 days. Depending on the Commission's conclusions regarding DPAs and small utilities, some of the proposed DPA reporting requirements may not comport with the DPAs implemented by all utilities. IGC asks that the Commission also consider the need for a small utility to provide information at the zip code level. Large swaths of IGC's service area are covered by a single zip code. For that reason, zip code level information from IGC is not likely to provide the granularity sought by City-CUB and COFI. To the extent that there are multiple zip codes in IGC's service area, breaking down information by zip code level would be burdensome for IGC. If the Commission opts to require data at the zip code level, IGC requests that smaller utilities be exempt from doing so. Whatever reporting requirements the Commission ends up adopting, IGC suggests that the Commission direct Staff to develop a standard report form with input from the reporting utilities. Allowing utilities to provide input will help ensure that all utilities are interpreting the form in a similar manner and facilitate Staff receiving comparable data from the utilities. IGC April 10 Reply at 12.

H. Mt. Carmel's Position

Mt. Carmel believes that data reporting is an unnecessary burden and expense. If ordered by the Commission, Mt. Carmel would suggest that it and other small utilities be exempted from reporting. If the Commission feels that small utilities should also report, then the reporting should begin at the end of the moratorium period. If data reporting is going to be ordered, Mt. Carmel would suggest using Staff's proposal with the modification of not requiring items 4, 5, 6 & 7 as they are too labor intensive (at least for Mt. Carmel) as the data would have to be hand gathered and not an automatic system report.

Mt. Carmel argues that if the Commission requires data reporting, it should be on a monthly basis. Requiring it semi-monthly is too frequent and would be too burdensome and would most likely not be as useful due to timing of meter reads and end of month financial reports. The report should be due on the 15th of the month using the prior month's data. Moreover, reporting by zip code would be of no benefit, especially for small utilities. The territories typically are small towns with rural customers and usually only have a few zip codes with all the area being similar in customer base. Zip code reporting should not be required of small utilities.

I. Consumers' Position

If Staff's recommendation is adopted, Consumers requests that it be allowed to generate and report such data on a monthly, rather than semimonthly, basis in order to mitigate the burdens of providing them. If the Commission orders data reporting at the zip code level, Consumers agrees that smaller utilities should be exempt from doing so as this would be unduly burdensome on a utility the size of Consumers.

J. MidAmerican's Position

MidAmerican notes that Staff's requested information can be useful to spot trends and analyze customer impact; however, MidAmerican disagrees with Staff's recommended reporting frequency and start date. MidAmerican's April 10 Reply at 7-8.

According to MidAmerican, much of the data requested has also been requested as part of the Commission's recently launched inquiry regarding energy affordability, albeit in a different format. *See* Affordability NOI, 4-7, Docket No. 20-NOI-01 at 4-7 (Mar. 18, 2020). The inquiry requests essentially the same data "by census block, census block group, census tract, zip code, zip code plus four and/or as many categories as [the utility has] available." *Id.* at 5-6. Recognizing the significant effort required to query and organize this data, the Commission provided utilities 60 days after the public health emergency ends to respond. MidAmerican states the Commission should start with this data produced in the inquiry to review customer impact. First, the information requested in the inquiry is more granular and will provide a better baseline from which the Commission can review impacts. Second, MidAmerican believes this approach will conserve resources necessary to compile the more fulsome information in the inquiry. For these reasons, MidAmerican argues for any data reporting to commence after responses are provided in the energy affordability inquiry and that the data be provided no more frequently than monthly for a six-month period. MidAmerican April 10 Reply at 8.

K. Liberty's Position

Liberty requests that it be allowed to report monthly, rather than semimonthly, as this would significantly ease the administrative burden it would face in preparing the reports. Other utilities have echoed this position.

Liberty believes that the additional reporting obligations that Intervenors seek to impose would be better addressed in the Commission's recently opened Affordability NOI.

L. AG's Position

The AG argues for regular data collection, including that the utilities be required to present a baseline report within 30 days of the end of the state of emergency. The AG notes that the data parameters set out by Staff are acceptable. Furthermore, the AG agrees with Staff that this reporting is necessary so that the Commission can determine whether revisions are necessary to a utility's temporary credit and collections procedures, should the Commission determine those procedures are not effective in ensuring that customers' disconnections are minimized. The AG maintains that a regularly scheduled hearing is necessary to enable the Commission to effectively review and exercise its modification authority.

M. City-CUB's Position

City-CUB posit that all stakeholders will be better served if the Commission's decisions on post-emergency (and other long-term) issues are informed by the data that can be collected under modified procedures and comparisons of the results with results under the current Part 280.

City-CUB argue that National Association of State Utility Consumer Advocates, ("NASUCA") Resolution 2019-07 provides a well-vetted list of data points that should be tracked during and after this unique period of disconnection, bill payment, and collection activity. The resolution also describes a process for public reporting of the data collection results. The resolution encourages stakeholders to pursue its clearly delineated steps, to capture data needed to enable evidence-based policies. City-CUB assert that these data points will be critical when the Commission reviews the effectiveness of ordered emergency and post-emergency accommodations.

City-CUB maintain that the NASUCA Resolution's recommended open reporting of collected data also can assist local governments and others support agencies in identifying areas where support services should be targeted. In this regard, City-CUB assert that zip code level data would be most helpful. Where data valuable to the Commission and other governmental/public service entities can be relatively easily be collected, such as here from regulated essential services providers, City-CUB argue there is a public duty to act.

N. COFI's Position

The Commission's Emergency Interim Order implies, if not stipulates, that the Commission's review of the submitted C&C plans will be ongoing. Emergency Interim Order at 4. The Commission will be unable to determine if additional proceedings are needed unless it requires the utilities to track certain data points that will reveal both the need for a continuation of the flexible C&C procedures and the success, or lack thereof, of the new payment terms.

COFI states that it should be noted that reporting by zip code is essential to assess the affordability of utility service for customers within a service territory, and the effectiveness of revised C&C procedures. Some national and regional data sets show disparities by race in disconnections and other important energy security metrics, even after controlling for income. These disparities raise profound racial justice concerns and highlight the importance of obtaining utility-specific credit and collections data at the

Census tract level. In addition, geographically granular data will also assist the utilities in targeting of effective energy efficiency and other low-income assistance programming. Utilities should be required to file the information monthly so that the Commission can evaluate the effectiveness of the revised C&C procedures.

The Commission should reject the utilities' claims that such data collection is unduly burdensome and duplicative in light of the Affordability NOI. However, COFI notes that action and data collection are needed *now* if the Commission is serious about ensuring energy affordability in the difficult days ahead, post-shut-off moratorium.

While COFI appreciates Staff's recommendation that the utilities track and file several identified data points, the request is both incomplete and missing data-by-zip-code requirements. In addition, the requested data fails to break down each data point by customers designated as "low income" and other residential customers. In addition to the data points requested by Staff, the Commission should order the utilities to include the following as required data to be filed with the Commission, by zip code: dollar value of late fees collected, number of customers with an arrearage balance by vintage, dollar value of arrearages by vintage, number of service restorations after disconnection for nonpayment, average duration of disconnection, dollar value of security deposits collected, average repayment term of new DPAs and successfully completed DPAs.

O. Commission Analysis and Conclusion

The Commission recognizes the importance of ensuring that the goals of the Emergency Initiating Order are met by reviewing data collected during this time period. However, the Commission is mindful that adding to the utilities' already stressed workforce as Illinois deals with stay at home orders, social distancing and working conditions may not be wise and could take utility personnel away from more important work addressing the COVID-19 pandemic and ensuring that customers have essential services. The Commission also understands the burden such frequent reporting would have on smaller utilities, who have significantly fewer employees. Staff's recommended data collection points represent relevant information that could inform the parties about how the utilities revised C&C measures are affecting its customers; however, the breadth of requests and frequency of collection seems unwieldy. The Commission suggests the utilities use Staff's list as a guideline and provide the Commission and the parties with a monthly report filed in this docket about its C&C modifications and costs. As pointed out by many utilities, Staff's list of suggested data includes much information that the utilities already provide to the Commission. Utilities should provide the information suggested by Staff, when available. These monthly reports should be filed during the pendency of the public health emergency and up to three months thereafter, starting June 1, 2020. Should Staff identify reporting issues or holes in data collected, it can notify the Commission in a Staff Report.

V. COST RECOVERY

A. Staff's Position

Staff notes that several utilities have raised issues associated with cost-recovery in this proceeding. The Commission has directed utilities to track costs incurred as a result of dealing with the public health emergency. Accordingly, it appears to Staff that

the manner in which utilities account for and recover costs is squarely before the Commission. While the prudency of each utility's incurred costs clearly must be assessed on an individual-utility basis, Staff takes the view that the adoption of common accounting protocols, as well as possibly mandating the vehicle(s) through which cost recovery will be accomplished, is a matter Staff considers proper for resolution in this proceeding. Staff recommends that utilities provide responsive information which provide sufficient explanation to allow the Commission to properly address those topics. Staff states that such explanation should include, but not be limited to, (1) detailed explanation of the planned ratemaking treatment for costs incurred or late payment fees suspended as a result of dealing with the public health emergency (e.g., regulatory asset amortized over X years, inclusion with costs recovered via other existing riders, etc.), and (2) for those utilities who have proposed recovery of suspended late payment fees via the utilities' respective uncollectible expense riders, detailed explanation of how such fees may qualify as recoverable amounts under existing tariffs, administrative rules, and law. To be clear, Staff is not inherently opposed to utilities' recovery of forgone revenues corresponding to suspended late payment fees or recovery of costs incurred as a result of dealing with the public health emergency. Rather, Staff observes that the parties will benefit from any regulatory certainty regarding cost recovery that could be provided in the Commission's orders in this proceeding.

Staff notes that this concern is particularly salient if the Commission is inclined to consider imposition of any statewide minimum standards. Staff considers it possible that uncertainties regarding cost recovery may have induced at least some of the respondent utilities to propose measures that, while consistent with the Commission's Emergency Interim Order, offer fewer protections to potentially at-risk customers than those proposed by Intervenors. Staff notes that the parties will benefit from regulatory certainty regarding cost recovery in this proceeding. While utility officers and executives may fully understand the financial issues that at-risk customers face as a result of the public health emergency, as a matter of law utility officers and executives have a fiduciary obligation to utility shareholders to act in their interests. *See, e.g.*, *Advantage Mktng. Group, Inc. v. Keane*, 2019 IL App (1st) 181126 at ¶ 22 (corporate managers have a fiduciary obligation to corporation and shareholders and must act in the corporate interest).

To the extent that utilities were not prepared to submit plans more closely in line with the proposals advanced by the Intervenors based on perceived uncertainties regarding cost recovery, Staff observes little has been done so far in this proceeding to assuage such concerns. COFI in particular has stated, with respect to recovering revenues foregone as a result of non-assessment of late payment fees, that the Commission should determine at a later date whether these fees, which are authorized by rule and provided for in Commission-approved tariffs, should be recovered. COFI Response at 3; *see also* 83 Ill. Adm. Code 280.60(d)(1) (late fees subject to tariff). Like COFI, the AG argues that recovery issues should be postponed for consideration at a future date after the crisis has been resolved. AG Response at 23.

Based upon Staff's review of COFI's, the AG's and City-CUB's proposals, it appears that implementation of the measures proposed would likely impose significant costs upon utilities and result in their forgoing significant revenues. If cost-recovery remains at issue, utilities are unlikely to willingly offer plans more closely in line with the

proposals advanced by the Intervenors. To address this issue, Staff recommends that the Commission assure utilities that they will be entitled to recover prudently incurred costs or foregone revenues resulting from the actions they take in response to the Commission's Emergency Interim Order. In providing such assurances regarding cost recovery, Staff recommends the Commission also call on the utilities to implement measures more closely in line with the proposals advanced by the Intervenors.

B. ComEd's Position

ComEd is tracking its costs resulting from the Emergency Interim Order and any other measures taken in response to the COVID-19. Based on current forecasts, ComEd anticipates that these costs will exceed $10 million. Therefore, ComEd anticipates that it will seek recovery of these costs as a regulatory asset, amortized over 5 years, in a future distribution services formula rate proceeding in accordance with Section 16-108.5(c)(4)(F) of the Act. 220 ILCS 5/16 108.5(c)(4)(F).

Regarding Staff's second request, ComEd stated that it has not proposed recovery of suspended late payment fees through its uncollectible expense rider, Rider UF.

ComEd is considering various COVID-19 customer relief programs that may require rate recovery. At this time, any such program proposal, and its subsequent recovery mechanism, has not been fully developed, and therefore any discussion regarding cost recovery for those potential programs is premature. ComEd reserves the right to request recovery of costs associated with future COVID-19 customer relief programs, as appropriate.

Some Intervenors criticize Staff for seeking to make this proceeding one in which the Commission reviews and approves specific cost recovery (or lost revenue) amounts. ComEd did not understand Staff to be suggesting that this docket could or should be a "cost recovery" docket in that sense. Staff's April 10 Reply, by means of its alternative proposal, makes that clear.

C. Ameren's Position

Ameren Illinois agrees with Staff that utilities will benefit from regulatory certainty regarding cost recovery of the costs associated with the Emergency Interim Order.

Ameren Illinois explains as fiduciaries of essential services that its communities absolutely rely upon, Ameren Illinois cannot ignore the cumulative financial impact of its present circumstances. Ameren Illinois states funds from operations are an important source of cash that it uses to finance its day-to-day operations so that essential services are available. Ameren Illinois notes that at present, it is confident in its ability to maintain and sustain safe and reliable operations, but Ameren Illinois nonetheless must be diligent with respect to maintaining the financial integrity of its operations as it goes forward in a period of uncertainty. Ameren Illinois states that it also desires to avoid incurring additional debt, financial risk, and the associated interest expense going forward to the extent such circumstances can be avoided. This is why Ameren Illinois raised the cost recovery issues associated with foregone revenues and unanticipated expenses.

Ameren Illinois explains with respect to late fees, its gas rates incorporate an anticipated amount of late fee revenue to support its cost of providing service. Ameren Illinois further explains with respect to its gas operations, this assumption was included

as a revenue credit in determining the revenue requirement and associated rates in its last general rate case. Ameren Illinois states that for reasons beyond its control, these late fees have become essentially "uncollectible" at least for the immediate time period even though Part 280.60(d) allows the Ameren Illinois to impose and collect these fees. Ameren Illinois therefore requests leave to file tariff changes to its Customer Terms and Conditions for gas service tariff to permit recovery of these forgone late fee revenues through its gas uncollectibles recovery tariff. Ameren Illinois does not intend to seek the recovery of any revenues not included in the development of its last general rate case. Ameren Illinois further asks that such tariff changes be reviewed expediently in order to have such tariff changes effective during the operative period. Ameren Illinois states that it would only seek to have such a provision in place during periods in which the emergency late fee waiver is in effect.

With respect to COVID-19 costs that are clearly in excess and severable from its normal cost structure, Ameren Illinois asks that the Commission express an openness to consider regulatory asset treatment of costs incurred by utilities to address these unprecedented times. Ameren Illinois believes that the dollars that it is spending today to ensure its employees are practicing social distancing while also continuing to sustain essential services in its communities are investments in Illinois. Ameren Illinois explains that during this extraordinary time, these expenditures are important investments comparable to the dollars it normally expends to put pipe in the ground or wires on its poles. Notwithstanding the fact these unique COVID-19 costs may not be reoccurring in future periods. Ameren Illinois notes that it is not requesting that the Commission pre-approve any costs, or otherwise prejudge a future rate proceeding, Ameren Illinois is simply asking that the Commission express a willingness to allow the utilities to record extraordinary expenses for a review and potential amortized recovery in a future general rate case proceeding. Ameren Illinois explains that other states have permitted utilities to undertake similar cost tracking, and it asks that the Commission consider doing the same. Ameren Illinois notes that historically, the Commission has permitted the recordation of regulatory assets in circumstances where customer benefits can be demonstrated from the grant of such relief. *See e.g.* Docket No. 04-0294, Final Order at 27 (Sept. 22, 2004) .

D. Large Water Utilities' Position

The Large Water Utilities take the position that the Commission should approve deferral accounting—use of regulatory assets—for future cost recovery of COVID-19 related costs and authorize the Large Water Utilities to file a catastrophic event rider to facilitate future cost recovery.

The Large Water Utilities explained that they seek reasonable regulatory certainty regarding recovery of the costs that they have incurred and will incur as a result of the COVID-19 emergency. The Large Water Utilities claim the Commission could provide that certainty in this proceeding. Thus, the Large Water Utilities explain that they are submitting in this proceeding the cost recovery information that Staff requests (at least to the extent that they can do so today). Given the unknowns regarding the effects of the COVID-19 emergency, its duration, and, consequently, the related costs that the Large Water Utilities will incur, the Large Water Utilities believe that certain accounting and regulatory ratemaking mechanism approvals in this proceeding—specifically,

Commission authorization to record costs to regulatory assets for future recovery and authorization to file a catastrophic event rider to facilitate that recovery—are the best vehicles for COVID-19 related cost recovery. The Large Water Utilities maintain such approvals would put the Large Water Utilities on par, from a cost recovery perspective, with gas and electric distribution utilities.

Due to the uncertainty of this emergency, whatever COVID-19 related cost recovery approach the Commission sanctions in this proceeding, the Large Water Utilities posit that it should not be so rigid as to foreclose recovery of any costs (of unknown type and extent) that utilities may incur to respond to the COVID-19 emergency. Today, the Large Water Utilities explain, those costs primarily relate to the shut-off moratorium and related customer communications and to participation in this proceeding. However, the COVID-19 emergency continues to evolve. The Large Water Utilities point out that future costs, some of which will only be apparent once the emergency is over, cannot be estimated now.

The Large Water Utilities explain that their respective Volume Balancing Adjustment ("VBA") rider surcharges are determined based on billed, rather than collected, revenues and reconcile volumetric, but not fixed, charges relative to rate case revenues. Thus, those riders do not provide the Large Water Utilities revenue stability despite the COVID-19 emergency. Currently, the Large Water Utilities explain, there is no mechanism for the Large Water Utilities to recover these costs. Unlike Illinois gas utilities, they do not have uncollectibles or similar riders. 2020 is not a planned rate case test year. Unlike Illinois electric distribution utilities, they cannot recover their 2020 actual costs through a historical formula rate. *See* 220 ILCS 5/16-108.5. Nor do they have a balance sheet deferral account to record their COVID-19 related incremental costs to. *Cf*. 220 ILCS 5/16-108.5(c)(4)(F) (authorizing electric distribution utilities to amortize over a five-year period "the full amount" of costs over certain thresholds for "a single storm or other similar expense, provided that any unamortized balance shall be reflected in rate base"). However, the Large Water Utilities explain, they must recover the costs to allow them to provide continued, essential water and wastewater service.

The Large Water Utilities therefore submit that the Commission should put them on par with Illinois gas and electric distribution utilities and (1) approve deferral accounting—their use of regulatory assets for future cost recovery of COVID-19 related incremental costs, including costs related to the Emergency Interim Order; and (2) authorize them, under Section 9-220.2 of the Act, 220 ILCS 5/9-220.2, to file a catastrophic event rider to facilitate future cost recovery. These approvals would enable the Large Water Utilities to recover their COVID-19 related incremental costs.

Regarding regulatory assets, under Financial Accounting Standards Board's ("FASB") Accounting Standards Codification 980, the Large Water Utilities explain, a utility may book costs to a deferred asset account and obtain recovery on and of the asset in the future if there is reasonable assurance from the regulator that the utility may recover the costs. FASB, Accounting Standards Codification (ASC) 980-340-25-1 – *Regulated Operations* ("Rate actions of a regulator can provide reasonable assurance of the existence of an asset. An entity shall capitalize all or part of an incurred cost that would otherwise be charged to expense . . . ."). The Large Water Utilities believe the Commission's order in this proceeding should provide that assurance. *See GTE North,*

Inc., Docket Nos. 93-0301/94-0041 (Cons.), 1994 WL 711847 (Ill.C.C.), Final Order (Oct. 11, 1994) (approving deferral and amortization over 10 years for costs related to damage from 1993 floods). They contend that the Commission's order here should authorize them to record their COVID-19 emergency related costs, which the Large Water Utilities are already tracking pursuant to the Emergency Interim Order, to regulatory assets. Further, the Large Water Utilities state that the Commission should direct that it will determine the appropriate amortization period for the regulatory assets once the COVID-19 emergency has passed. They maintain that absent a catastrophic event rider and given the typical period between rate cases; however, the amortization period should be no greater than three years.

The Large Water Utilities further posit that the Commission should also authorize them to file a catastrophic event rider, which would permit the Large Water Utilities to recover their COVID-19 related incremental costs without necessitating a rate case. The Large Water Utilities explain that Section 9-220.2 of the Act permits the Commission to "authorize a water or sewer utility to file a surcharge which adjusts rates and charges to provide for recovery of . . . costs which fluctuate for reasons beyond the utility's control or are difficult to predict . . . independent of any other matters related to the utility's revenue requirement." 220 ILCS 5/9-220.2(a). Without question, the Large Water Utilities explain, the COVID-19 emergency, and the costs that the Large Water Utilities have incurred and will incur as a consequence of it, are outside their control and are unpredictable. So, the Large Water Utilities maintain, the Commission's Order here should authorize them to file a catastrophic event rider under Section 9-201 of the Act, 220 ILCS 5/9-201(a), to recover those costs between rate cases.

The Large Water Utilities explain that this solution is simple, and it would alleviate the unknowns to the Large Water Utilities regarding their COVID-19 emergency related costs. They maintain that it would allow them to defer recovery of those costs until a time when there is more certainty, while providing them the assurance that they need today that the incremental costs that they are incurring in responding to the pandemic will be recoverable at a future date, subject to the Commission's reasonableness and prudency review.

E. Nicor Gas' Position

Nicor Gas observes that the Commission's directive regarding cost recovery comports with well-established law that regulated utilities are entitled to a reasonable opportunity to recover their prudently-incurred costs. Emergency Interim Order at 5; *Fed. Power Comm'n, et al. v. Hope Natural Gas Co.* ("*Hope*"), 320 U.S. 591, 603 (1944)).

Nicor Gas states that it did not understand there to be an open question of the utilities' recovery of prudently-incurred costs in response to the COVID-19 emergency – whether addressed in this proceeding or a future one. However, in response to Intervenors' apparent position that there is a question about the utilities' ability to recover these costs, Nicor Gas notes its agreement with Staff that "'the parties will benefit from any regulatory certainty regarding cost recovery that could be provided in the Commission's orders in this proceeding.'" Staff Resp. at 16.

Nicor Gas emphasizes that reasonable assurances that these costs are recoverable, subject to a later review to determine prudence and reasonableness, provide

the utility with necessary stability in planning and forecasting, and also shape how external market participants view the utility. Citing relevant case law, Nicor Gas also points out that direction from the regulator to a public utility to undertake extraordinary activities without allowing for the recovery of the associated costs raises constitutional issues. *Hope,* 320 U.S. at 603; *Bluefield Water Works & Improvement. Co. v. Pub. Serv. Comm'n*, 262 U.S. 679, 692-693 (1923); *Duquesne Light Co. v. Barasch,* 488 U.S. 299, 305 (1989)).

Nicor Gas points out that a number of other regulators have authorized the creation of a regulatory asset to recover costs incurred as a result of the COVID-19 emergency. Nicor Gas April 10 Reply at 10. Given this legal and factual landscape, Nicor Gas submits that it is appropriate for the Commission to authorize the utilities to record a one-time regulatory asset for the incremental costs that they are incurring in response to the COVID-19 emergency to facilitate the recovery of such incremental costs prudently incurred by the utilities. Nicor Gas Reply at 11. Nicor Gas also submits that the amortization period for such a regulatory asset is more appropriately determined for each individual utility in the proceeding in which the prudence and reasonableness of the costs also will be determined. *Id*.

In response to the Intervenors' arguments that the recovery of these costs should not be addressed in this proceeding because sufficient evidence does not exist to make a determination regarding the prudence and reasonableness of these costs, Nicor Gas points out that neither Nicor Gas, nor any other utility, has requested that the Commission make a prudence or reasonableness determination. Instead, such a determination is appropriately reserved for individual utility proceedings.

Separately, it is Nicor Gas' position that Commission-required suspended late payment charges are appropriately treated as uncollectible expense, which will be subject to recovery and reconciliation through its Rider 26, Uncollectible Expense Adjustment. Nicor Gas points out that the Commission approved Rider 26 in 2010, after the General Assembly authorized such riders for natural gas utilities when a nationwide recession was causing a significant increase in uncollectibles expense. *N. Ill. Gas Co. d/b/a Nicor Gas Co.,* Docket No. 09-0428, Order (Feb. 2, 2010); 220 ILCS 5/19-145. Nicor Gas also states that even before the statutory rider authorization, the Commission regularly allowed Nicor Gas to recover uncollectibles expense as a cost of doing business, and, in approving projected uncollectibles expense in base rates, recognized that it "'would be remiss if it did not pay attention to the state of the economy as it exists now.'" *N. Ill. Gas Co. d/b/a Nicor Gas Co.*, Docket No. 08-0363, Order at 30 (Mar. 25, 2009).

F. NSG-PGL's Position

NSG-PGL argue that foregone late payment charges should be recoverable through their uncollectibles Rider UEA. NSG-PGL further argue that other costs of complying with the Commission's orders in this docket should be deferred, and a regulatory asset created, to be considered for recovery in a future rate proceeding.

NSG's and PGL's Riders UEA allow the utilities to recover their actual uncollectible amount experienced from year to year, as reflected in Uniform System of Accounts account 904 on the utility's Form 21. *See* 220 ILCS 5/19-145(a). A forecast of uncollectible amounts is included in the utilities' base rates. The riders provide a "true-

up" mechanism to ensure that the utilities recover their actual uncollectible amounts, nothing more and nothing less. NSG-PGL observe that the riders reflect the policy that variations in uncollectible expenses are beyond the control of the utilities and should be recovered from the customer base as a whole dollar-for-dollar. *See Peoples Gas Light and Coke Co. and N. Shore Gas Co.,* Docket Nos. 09-0419/09-0420 (Cons.). Otherwise, NSG-PGL argue, they would either profit or lose, to the extent that their actual uncollectible expense varied from the forecasts in their base rates. Given the Commission's suspension of late payment charges ("LPCs") in this docket, the utilities argue that it is appropriate to record foregone LPCs to account 904 and then flow them through Rider UEA beginning with the next reconciliation case, which will be filed on or before August 31, 2020 and will cover uncollectibles from June 1, 2019 through May 31, 2020.

Utilities are entitled to assess LPCs not to exceed 1.5% per month for undisputed bill amounts. *See* 83 Ill. Adm. Code 280.60(d)(2). Pursuant to this authority, PGL's and NSG's Terms and Conditions of Service require the utilities to assess a 1.5% charge on accounts (other than qualified low-income customers) for late payments. *See* PGL Terms and Conditions at 8; NSG Terms and Conditions at 8. Such charges incentivize customers to make timely payments and compensate utilities for the cost of managing and collecting late payments.

NSG-PGL's Terms and Conditions were modified on March 28, 2020 to reflect the Commission's Emergency Interim Order. Without this change, NSG-PGL argue, it would not have discretion to forego assessment of LPCs under its Commission-approved Terms and Conditions. In the ordinary course, NSG-PGL contend that it would have imposed LPCs on customers who were late paying their bills and would have collected the vast majority of LPCs from those customers. LPCs not collected would have been placed in account 904 and then through Rider UEA without controversy, according to NSG-PGL. *See, e.g.,* Docket Nos. 17-0370/17-0371, 16-0414/16-0145, and 15-0459. However, because of Commission action, none of the LPCs that would have otherwise been assessed on delinquent bills will be collected. According to NSG-PGL, LPCs that are rendered uncollectible due to Commission action are every bit as much an expense as those that are rendered uncollectible because a customer refuses to pay them. Such charges provide an incentive for timely customer payments and compensate utilities for the cost of managing and collecting late payments. Thus, the LPCs that are foregone due to the Emergency Interim Order in this case should be afforded the same accounting treatment as ordinary uncollectible LPCs, and recovery should be allowed through Rider UEA.

Given the unique circumstances here, NSG-PGL urge the Commission to apply flexibility in enforcement of this list with respect to foregone LPCs. The Commission has shown a willingness to exercise its discretion in this area by, for example, not requiring utilities to disconnect service or send disconnection notices during periods of extreme cold and during the winter moratorium. *See, e.g.*, *In re Commonwealth Edison Co.*, Docket No. 17-0369 (Apr. 3, 2018).

Similar to the suspension of otherwise authorized utility actions during a weather emergency, NSG-PGL understand that the Commission does not intend for utilities to disconnect customers based on LPCs that are not imposed during the term of the public

health emergency. Therefore, NSG-PGL argue, the Commission should not require utilities to show in future uncollectibles reconciliation proceedings that they have served disconnection notices or disconnected customers for nonpayment of foregone LPCs. According to NSG-PGL, by providing such guidance now, in this docket, the Commission can provide utilities the certainty they need with regards to critical financial planning during the public health emergency and beyond, which will complement the certainty the Commission has already provided to customers with respect to late payment charges.

With respect to non-LPC costs, NSG-PGL argue that the Commission should take the next logical step and allow the utilities to use deferral accounting for these costs, thereby creating a regulatory asset. Doing so will provide the utilities with assurance that a prudence review of costs incurred now will be available in a future proceeding.

Assuming that the utilities act prudently to control the costs expended to respond to COVID-19, NSG-PGL argue that there can be little debate that the costs are in the public interest. Illinois' utilities provide essential services to their customers, and the safety and reliability of those services have never been more important under the present reality of stay-at-home orders.

NSG-PGL express concern that absent a deferral order, future attempts to recover these costs will likely be met with arguments that doing so would violate test year principles and/or the rule against single-issue ratemaking. *See Business & Professional People for the Public Interest v. Ill. Commerce Comm'n* ("*BPI II*"), 146 Ill.2d 175, 196, 585 N.E.2d 1032 (1991). NSG-PGL suggest that a deferral order at this stage will take these arguments off the table in a future rate proceeding where utilities may seek to recover COVID-19 costs. Deferral accounting is appropriate where: (1) circumstances beyond utility's control have created a significant regulatory lag between the incurrence of the cost and the date of the rate order; and (2) denial of the accounting variance *could* significantly and adversely affect the company's earnings, as well as its short-term and long-term cost of capital. *BPI II*, 146 Ill.2d at 233 (emphasis added). NSG-PGL argue that both of these criteria are met in this case.

It is important to emphasize that allowing the utilities to record a deferred expense does not guarantee ultimate recovery of that expense. Rather, NSG-PGL point to case law to demonstrate that the Commission follows a two-step process – the first considers whether the utility may record deferred charges, thereby making them potentially recoverable, and the second considers whether those deferred charges can actually be recovered through rates. *BPI II*, 585 N.E.2d at 1062 ("There is a fundamental difference between a rate case and a case involving only accounting procedures. A decision to permit recording of deferred charges has only an indirect impact on rates and, therefore, is not subject to the same scrutiny as a decision to raise rates."). NSG-PGL are asking the Commission to make only the first determination here.

G. IGC's Position

IGC does not have an uncollectible expense rider, as it does not collect many of the common fees. IGC does not anticipate a significant amount of deferred or waived fees for which it will later seek recovery. To the extent that any such fees do exist, IGC will likely seek in its next rate case to amortize them as a regulatory asset over 2 or 3 years. IGC will likely propose to treat the costs it incurs under this docket in the same

manner. In light of this plan, IGC does not object to the CUB or COFI proposals to defer definitive action on cost recovery.

H. Mt. Carmel's Position

Mt. Carmel would posit that there is no question that utilities should be able to recover their costs for the 6 months following the moratorium as well as for the time subsequent thereto as DPAs, failures to pay and other uncollectable amounts rise from the pandemic and may extend beyond. It is imperative that the utilities have assurance they will recover their prudently incurred costs, whether due to relaxed credit and collection plans, or expenses incurred with staffing, suspended late fees or penalties, waived fees, PPE, cleaning / sterilization expenses, and other related items. The only issue is how the utilities would recover their costs.

Some utilities have riders that allow for recovery of costs for events such as this and some do not. Each company should be able to evaluate how they will recover the incremental costs. For utilities that do not have a rider in place, or if a utility that does have one would prefer, these incremental costs should be allowed to be recorded as a regulatory asset. This would allow the utilities to recover the direct and indirect costs due to the COVID-19 health emergency and associated costs. Each utility should be able to determine how the costs will be recovered, including the amortization periods, which are unique due to each utilities' circumstances and not by a uniform process.

This docket should not determine the methods now but should simply find and order that prudently incurred costs will be allowed to be recovered by a method as developed by each utility and as approved by the Commission.

I. Consumers' Position

Consumers supports Staff's proposal that utilities should explain to the Commission how they plan to seek cost recovery.

J. MidAmerican's Position

MidAmerican follows the Federal Energy Regulatory Commission's Uniform System of Accounts in recording its revenues and expenses. *See* 83 Ill. Adm. Code, 415 and 505. *See also* 18 CFR, Parts 101 and 201. MidAmerican continues to follow these accounting regulations but has developed specific projects and sub-number codes for pandemic-related costs, allowing it to easily identify such costs related to providing service in its Illinois territory. MidAmerican has no objection to the Commission adopting additional accounting protocols for utilities to track these costs.

K. Liberty's Position

Liberty supports the Commission's determination of common accounting protocols and consideration of the proper vehicles for cost recovery. Liberty agrees with Staff that the prudency of each utility's incurred costs must be assessed on an individual utility basis. Liberty has not proposed a specific cost recovery mechanism but envisions that it would recover direct and indirect costs incurred in responding to the COVID-19 crisis through creation of a regulatory asset that is recovered over time.

L. AG's Position

The AG argues that it is premature to discuss cost recovery before the COVID-19 emergency has ended, much less before effective credit and collection procedures have been developed. The AG maintains that what is most important now is that the Commission establish measures to ensure that the State's residents remain connected through the ongoing crisis.

M. City-CUB's Position

City-CUB argue that any action in this docket that might be perceived as a determination on future treatment of pandemic-related impacts would be premature. Consequently, City-CUB conclude, the Commission must explicitly postpone any determinations of rate treatment of the pandemic's financial effects until after the anticipated Second Interim Order in this docket. Only after those effects are known can the Commission make informed decisions about appropriate costs, recovery periods, recovery vehicles, or the effect of a prolonged economic disruptions on traditional rate issues.

N. COFI's Position

COFI states that the Commission should reject any utility proposal that calls for a finding in this Order that coronavirus-related expenses and waived fees should be recovered. Further, Staff's proposal is premature.

First, any claims of lost revenues will be little more than unsubstantiated forecasts – particularly given the fact that neither the utilities nor the Commission knows how long the Commission's shut off/late fee moratorium and the Governor's emergency shelter-in-place order will remain in place. Second, even if the utilities are able to gather such detailed accounting information and cost recovery rationales in a matter of days, per Staff's request, stakeholders, including COFI, and other Intervenors will have had no opportunity to respond to those filings given the existing schedule. Issues of cost recovery should be left to a future analysis within this docket.

The utilities are free to try and make the case for recovery of these amounts at a later date in another proceeding (or within another phase of this proceeding), at which time those requests can be reviewed for their appropriateness, prudency and reasonableness. The abbreviated schedule in this docket permits no review of claimed expenses or "lost revenues" to justify any finding of prudency or reasonableness of expense. No evidence exists in the record to justify such recovery.

O. Commission Analysis and Conclusion

The Commission directed that utilities track all spending resulting from the measures taken in response to the pandemic, in order to allow for a meaningful future review of the reasonableness and prudency of all expenses. Most utilities are already tracking costs incurred since the date of the Emergency Interim Order. Some examples include costs to change systems, extend DPAs, collect data, train CSRs to communicate with customers about the changes in collection procedures, etc.

The Commission agrees with the Intervenors that detailed findings on cost recovery are premature at this point in time. The Commission will not issue any kind of blanket approval in this Order, but costs will certainly be examined in relevant future

proceedings. All proposals addressed in this Order from the utilities have been deemed to be compliant with the Order, and the proposals are reasonable. Like any expense, costs stemming from modifications to utility C&C as a result of this Order will be examined by Staff and intervenors in the appropriate rate recovery docket and approved if prudently incurred and reasonable. Moreover, these modifications to utilities' C&C policies and procedures were specifically requested by this Commission.

The Commission will not direct utilities as to the appropriate cost recovery vehicle to file or when to do so. As shown at length above, different utilities have different riders, rate case procedures (formula rate vs. Section 9-201), and certainly different financial plans in terms of how and when to file a rate case. As stated by virtually every party in this docket, there is no way to gauge what the costs will be, nor how long utilities will incur them. In the Commission's view, it is enough in this proceeding to ensure that the Commission will examine the costs expended as a result of this docket when analyzing cost recovery requests.

VI. FURTHER PROCEEDINGS

A. Staff's Position

Staff notes that, apart from ongoing oversight and cost-recovery issues, several small water and/or sewer utilities (530 customers or less) subject to the Emergency Interim Order have not submitted compliance plans. Staff continues to work to secure compliance and has prepared draft tariffs which such utilities may submit in compliance with the Order.

B. ComEd's Position

ComEd states that the AG's untimely request that the Commission add an effectively open-ended series of evidentiary hearings every 60 days lacks support. The Commission will receive utility data reports. The Commission and Staff can ask for more information through requests. The Commission can make a determination whether something in the reports and information prompt the filing of responses, or even other developments require further inquiry -- whether informal, formal, or even going so far as to require an evidentiary hearing. The AG's concept of rapid automatic evidentiary hearings for every utility lacks any details regarding whether or how there would be full proceedings -- discovery, testimony, briefings, draft proposed orders, and exceptions --- within rolling 60 day periods, not to mention rehearing requests and (if ordered) utility implementation efforts. The AG has not shown that its proposal is compatible with the procedural provisions of the Act and 83 Ill. Adm. Code 200 or with due process. Moreover, the AG does not offer any explanation of why its proposal would be a good use of the limited time and resources of the Commission and the parties. Finally, the AG ignores the Affordability NOI and its purposes, as well as the potential for duplication of efforts.

C. Ameren's Position

Ameren agrees to participate in any related future proceedings as the Commission sees fit in order to best serve its customers.

D. Large Water Utilities' Position

The Large Water Utilities support Staff's proposal to keep this proceeding open for further proceedings to, among other things, monitor the effectiveness of each utility's flexible C&C procedures via regular data collection and reporting.

E. Nicor Gas' Position

Nicor Gas states that it is not necessary to keep this proceeding open following the Commission's entry of an Order by May 1, 2020. In response to Staff's recommendation, Nicor Gas states that both issues may be addressed in the Commission's Order, so there is no need to keep this proceeding open for these items. Nicor Gas further states that the data reporting recommended by Staff may be filed as compliance filings in this proceeding even after the entry of a final Order. Nicor Gas argues that it should not be kept a party to an open proceeding simply to address matters involving other utilities that have not yet participated.

F. NSG-PGL's Position

NSG-PGL support Staff's recommendation that this docket remain open to address cost recovery.

G. IGC's Position

IGC does not object to conducting further proceedings in this docket to address cost recovery. IGC is willing to consider other issues that may arise from the Emergency Interim Order as well.

H. Mt. Carmel's Position

Mt. Carmel would suggest that the only future proceedings would be for the Commission to: (1) determine why those utilities that did not respond with a credit and collections plan failed to do so; (2) if data reporting is required, have Staff and each utility review and discuss the success of the utility's plan and re-evaluate as needed; and (3) future individual dockets for each utility and its cost recovery proposal.

I. Liberty's Position

Liberty believes that general cost recovery issues could be considered in this proceeding or in a separate proceeding.

J. AG's Position

The AG maintains that regularly scheduled hearings are necessary to enable the Commission to effectively monitor and review the effects of each utility's credit and collection practices on the public, to take further action – as needed – to modify credit and collection practices, and to later address the appropriate standards and methods for cost recovery.

K. COFI's Position

The utilities are free to try and make the case for recovery of these amounts at a later date in another proceeding (or within another phase of this proceeding) at which time those requests can be reviewed for their appropriateness, prudency and reasonableness. The abbreviated schedule in this docket permits no review of claimed expenses or "lost

revenues" to justify any finding of prudency or reasonableness of expense. No evidence exists in the record to justify such recovery.

L. Commission Analysis and Conclusion

This docket will remain open during the pendency of the public health emergency due to the COVID-19 pandemic. During that time period, the utilities will file their reporting requirements, as discussed in Section IV. above, which Staff will review and evaluate. At some point after the Governor declares the public health emergency is over, but no later than six months thereafter, Staff is directed to file a Staff Report in this docket recommending to keep it open or close it, and parties will respond to that filing. The issues of data collection and cost recovery are addressed above, in Sections IV. and V., respectively.

VII. FINDINGS AND ORDERING PARAGRAPHS

The Commission, having reviewed the entire record, is of the opinion and finds that:

(1) the Commission has jurisdiction over the parties hereto and the subject matter hereof;

(2) the recitals of fact and conclusions reached in the prefatory portion of this Order are supported by the record and are hereby adopted as findings of fact;

(3) the utilities have complied with the directives in the Commission's March 18, 2020 Emergency Interim Order;

(4) the utilities are directed to file monthly reports as discussed in Section IV. of this Second Interim Order; and

(5) Staff is directed to file a Staff Report after the Governor's COVID-19 state of emergency is lifted, but no later than six months thereafter, recommending the Commission keep the docket open or close it.

IT IS THEREFORE ORDERED by the Illinois Commerce Commission that the utilities have complied with the directives in the Commission's March 18, 2020 Emergency Interim Order.

IT IS FURTHER ORDERED that the utilities are directed to file monthly reports as discussed in Section IV. of this Second Interim Order.

IT IS FURTHER ORDERED that Staff is directed to file a Staff Report after the Governor's COVID-19 state of emergency is lifted, but no later than six months thereafter, recommending the Commission keep the docket open or close it.

IT IS FURTHER ORDERED that this Order is not final and is not subject to the Administrative Review Law.

DATED: April 20, 2020
BRIEFS ON EXCEPTIONS DUE: April 23, 2020

Glennon P. Dolan,
Jessica L. Cardoni,
Administrative Law Judges